

Public Utilities

FORTNIGHTLY



March 26, 1942

HAVE WE POWER TO DO THE JOB?

By Herbert M. Bratter

« »

War Damage and Insurance

By T. N. Sandifer

« »

You Couldn't Believe It

By Herbert Corey

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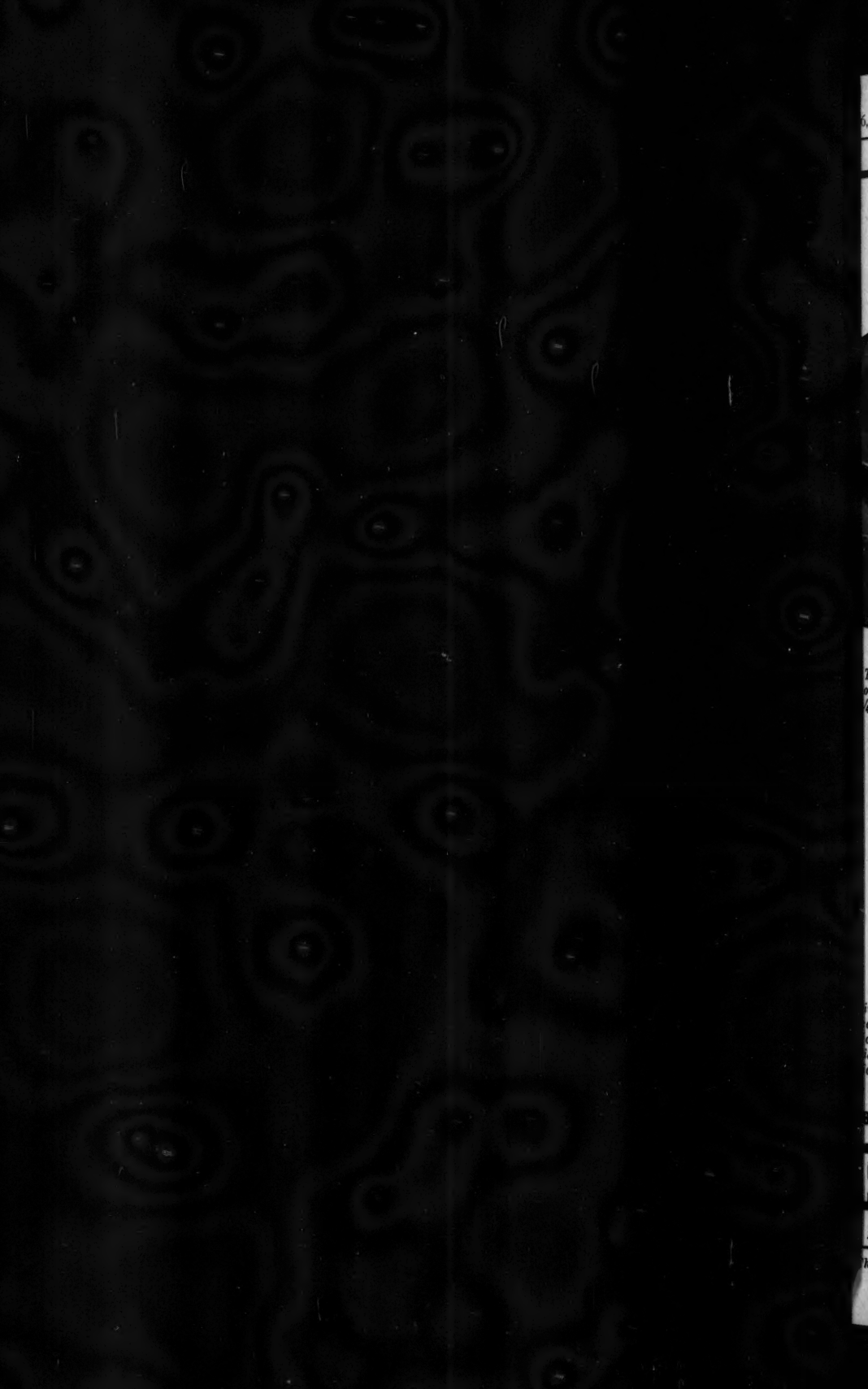
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Public Utilities Fortnightly



VOLUME XXIX

March 26, 1942

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Q This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.

PUBLIC UTILITIES REPORTS, INC., PUBLISHERS

Publication Office CANDLER BUILDING, BALTIMORE, MD.
Executive, Editorial, and Advertising Offices MUNSEY BUILDING, WASHINGTON, D. C.

PUBLIC UTILITIES FORTNIGHTLY, a magazine dealing with the problems of utility regulation and allied topics, including also decisions of the regulatory commissions and courts, preprinted from *Public Utilities Reports*, New Series, such Reports being supported in part by those conducting public utility service manufacturers, bankers, accountants, and other users. Entered as second-class matter April 29, 1915, under the Act of March 3, 1879. Entered at the Post Office at Baltimore, Md., Dec. 31, 1936; copyrighted, 1942, by Public Utilities Reports, Inc. Printed in U. S. A.

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Pages with the Editors

THE opening article in this issue, entitled "Have We Power to Do the Job?" by HERBERT M. BRATTER, makes quite a point of an item which we think is generally overlooked in these days of shortages and rationing. Mr. BRATTER refers to the fact that, so far, shortages have shown up in practically every other major line of consumption before they have shown up in terms of inconvenience to the average civilian citizen. Of course, Mr. BRATTER goes on to warn us that this may not always be true—in fact it probably won't be true within all too short a time.

BUT to date most of us have gone along using as much electricity as we always have (barring blackouts and appliances that we could not buy). We have used the telephone for the most part without hesitation or reservation (except perhaps for some long-distance calls). Most of us have not felt conscious of any need to skip our hot water baths or home-cooked meals, or other things which require gas or electricity.

It goes to show how much the American public takes for granted the reliability and excellence of public utility service. True, public



HERBERT COREY

So you can't change human nature? What did Pearl Harbor do?

(SEE PAGE 418)



HERBERT M. BRATTER

Curtailing appliance distribution is an indirect approach to rationing electricity.

(SEE PAGE 399)

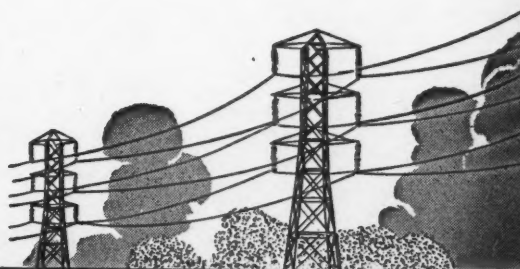
utility service is something that we could not hoard in advance of a shortage, even if we wanted to. But chances are that most of us have given little thought to the possibility that there might come a day when we could not be so free and easy about our consumption of utility service as we have always been.

THAT leads us to wonder just what it will be like when it becomes necessary to cut down on the civilian usage of consumer service. Preliminary measures in this direction have already been taken in the form of gas and telephone service curtailment orders recently promulgated by the WPB. But these were mild measures indeed, affecting principally the extension of new service. They did not affect the great proportion of existing and established utility consumers. When the time comes, however, to cut down on the individual family consumption of utility service, how is it going to be done?

IN besieged Great Britain the rationing of utility service has been virtually given up or at least postponed because of practical difficulties. Obviously, demand meters or other spe-



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cial devices that would automatically cut off service or ring a bell or give off some other kind of a warning that the customer had exceeded his proportion of use are feasible from an engineering viewpoint. But they are not likely to be employed to any great extent because we just don't have scarce metals that would be required for construction of large numbers of such special devices.

PROBABLY the curtailment of the sale of appliances, as MR. BRATTER suggests, will be an indirect approach. But as far as domestic consumers are concerned any rationing order would have to depend to a large extent on educational appeals and voluntary public compliance. General recommendations, such as reducing the size and number of electric bulbs, or suggestions as to the most favorable hours for civilian use of service, would seem to be about as far as the government could go as a matter of practical administration.

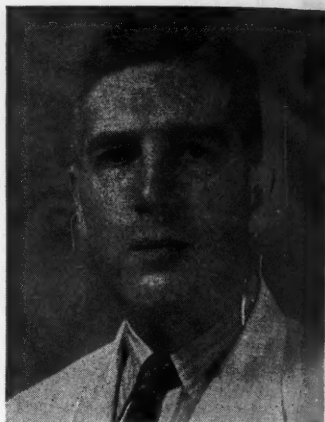
SOME supplemental inspection might be worked out in cases of troublesome abuse. It is going to be pretty hard to send a policeman into the homes to check up on the families' living habits with respect to utility consumption. An exception to this perhaps is the telephone service which can control its volume of traffic if it has to.

So it is probable that the industrial and commercial consumer will have to bear the brunt of mandatory rationing in the case of gas and electric consumption, together with what aid can be enlisted from the domestic consumer by way of voluntary cooperation. There can be no doubt that such voluntary cooperation will be cheerfully and generously forthcoming if, as, and when it is necessary.

MR. BRATTER, author of this article on the nation's power supply, is an industrial economist now serving as a Washington adviser and contributor to *Banking* magazine. He has previously served as a statistician for the Chinese government and from 1929 to 1935 with the U. S. Commerce and Treasury departments during which time he was sent to Tokyo. More recently he has been engaged in economic research, including the economic aspects of radio broadcasting. He is the author of numerous articles on financial and economic subjects which have appeared in financial and business periodicals quite generally.

DOES a public utility have a special war risk problem? Apparently it has, according to the article by T. N. SANDIFER, Washington newspaper correspondent, which begins on page 409. The recent discussion about insurance against air raids and other enemy damage has made the situation of the utilities, under such circumstances, a topic of considerable speculation. The fact that enemy bombers and saboteurs try to make a bee line for public utility properties whenever they go into

MAR. 26, 1942



T. N. SANDIFER

War risk insurance for utilities is to protect service, not property.

(SEE PAGE 409)

action is no small complication in estimating the war risk of insuring utility properties.

HERBERT COREY, whose article entitled "You Couldn't Believe It", begins on page 418, is a Washington author and newspaper correspondent whose writings frequently appear in this magazine.

AMONG the important decisions preprinted from *Public Utilities Reports* in the back of this number, may be found the following:

THE Arkansas commission ruled that it did not deprive an electric company of its property without due process of law when, in determining the rate base, it gave great weight to the actual investment in the boom year 1929, although considering present costs and other factors. (See page 65.)

THE estimated cost of a pipe line to serve an Army camp was included in the rate base of a natural gas company where it was certain that the company was going to supply a certain amount of gas for the camp and the matter of pipes was going to be worked out later. (See page 89.)

THE next number of this magazine will be out April 9th.

The Editors

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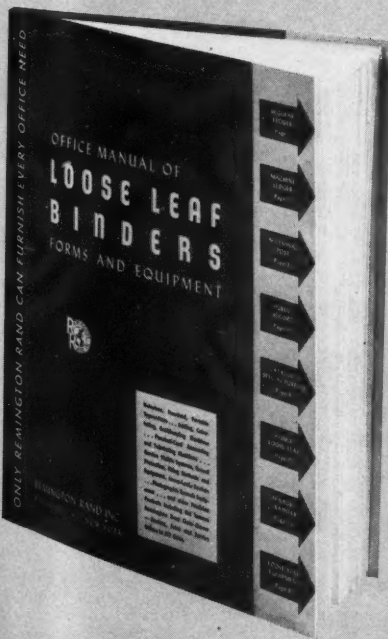
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Remarkable Remarks

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LEON HENDERSON
*Administrator, Office of Price
Administration.*

"There is no longer such a thing as junk."

CHARLES W. GERSTENBERG
Chairman, Prentice-Hall, Inc.

"Let's tax, really till it hurts, but let's tax for revenue and not for politics."

SIDNEY HILLMAN
Director, WPB Labor Division.

"In total war, casualties on the industrial front are as inescapable as they are on the battle front."

JOSEPH B. EASTMAN
Director, Office of Defense Transportation.

"I don't intend to interfere where it is not necessary. I don't intend to issue orders where men are willing to act without orders."

LEONARD POFFINBARGER
Chairman, Iowa Chapter, International Association of Electrical Inspectors.

"The public should view the electrical inspector as it does the lifeguard on the beach. He's there to protect property and life and not just to cause someone more expense."

LOUIS GUENTHER
President and publisher, Financial World.

"One of our great faults—and we may just as well admit it—is that we talk too much of what we shall do, and then when we do not come through quickly enough in fulfilling such assurances, we engage in carping criticism."

HAROLD STRAUSS
Associate editor, publishing firm of Alfred A. Knopf.

"Surpluses are the real assets of civilization. In a transition period, surpluses reflect themselves in unemployment. This simply means that hitherto we have been intolerably slow in recognizing our assets and in using them."

JAMES E. MURRAY
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*President, Curtis Publishing
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Industrial News Review.

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EDWIN G. NOURSE
*Director, Institute of Economics,
The Brookings Institution.*

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MALCOLM MUIR
*President and publisher,
Newsweek.*

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ADOLPH A. BERLE, JR.
Assistant Secretary of State.

"We cannot accept methods either of finance or business organizations which restrict production or employment, or which withhold either from the country in war or from the people in civil life the goods necessary to win a war or to live at peace."

RAYMOND MOLEY
Contributing editor, Newsweek.

"It should be obvious that the issue of the closed shop is not an issue that can properly or safely be left to any administrative board or subordinate official agency. It is an issue that has to do with the very nature of our society and form of government."

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Traffic World.

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R. R. DEUPREE
*Chairman, Business Advisory
Council, Department of
Commerce.*

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THURMAN ARNOLD
Assistant Attorney General.

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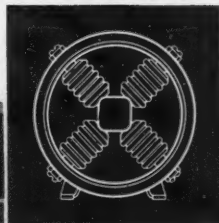
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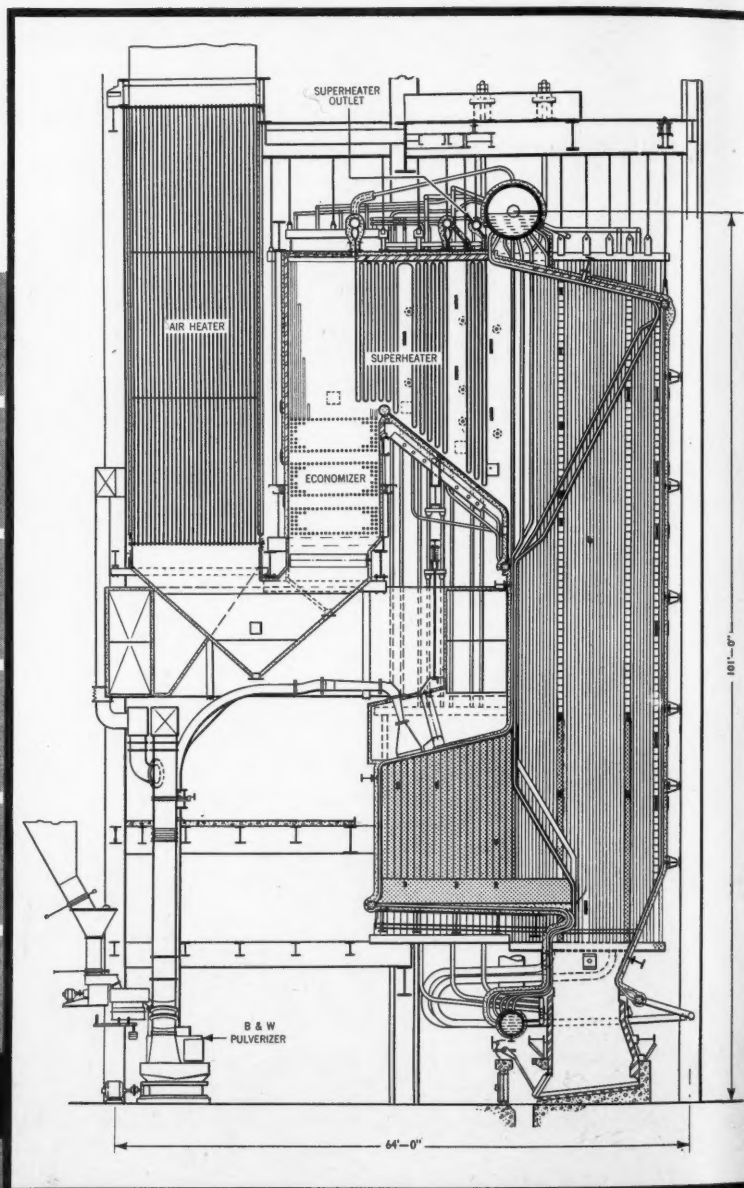
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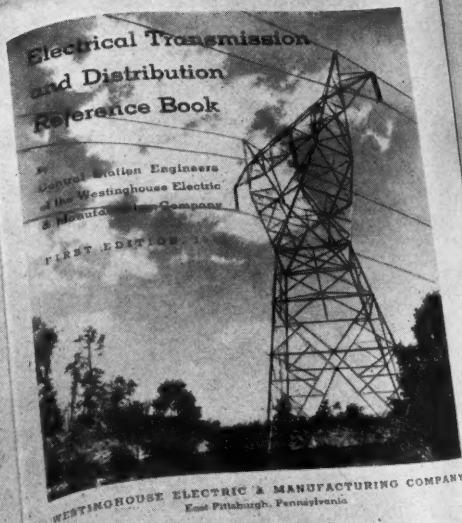
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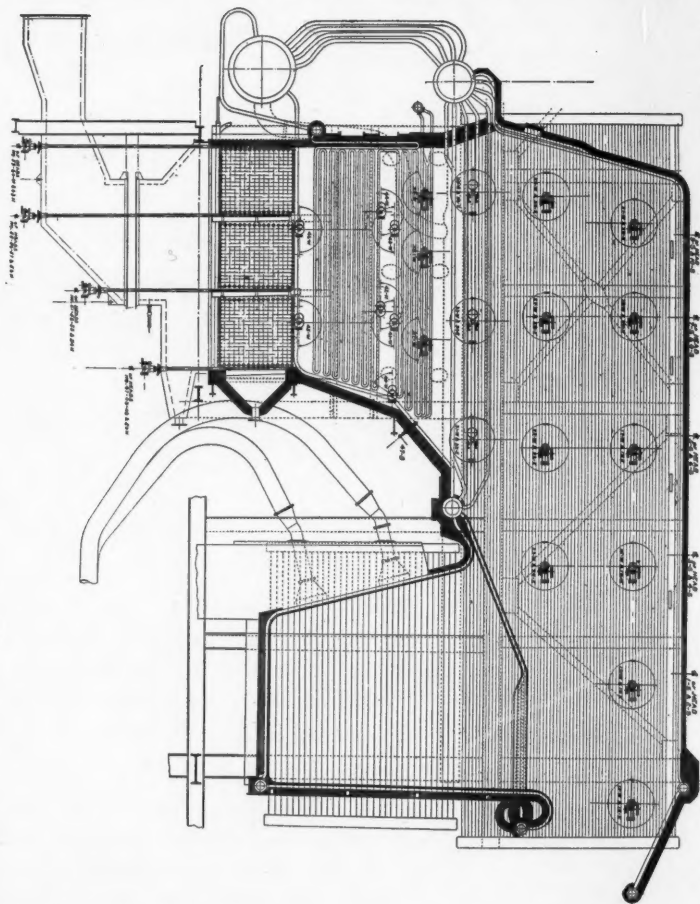
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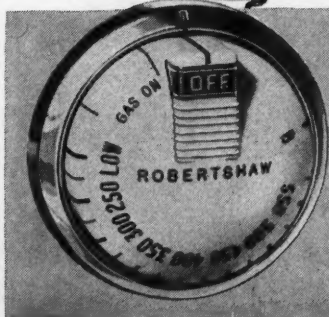
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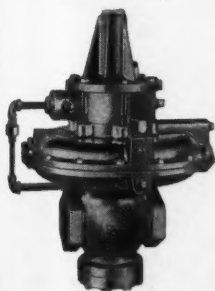
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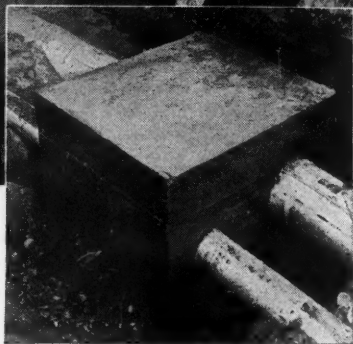
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to
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★ From the United States Treasury Department ★

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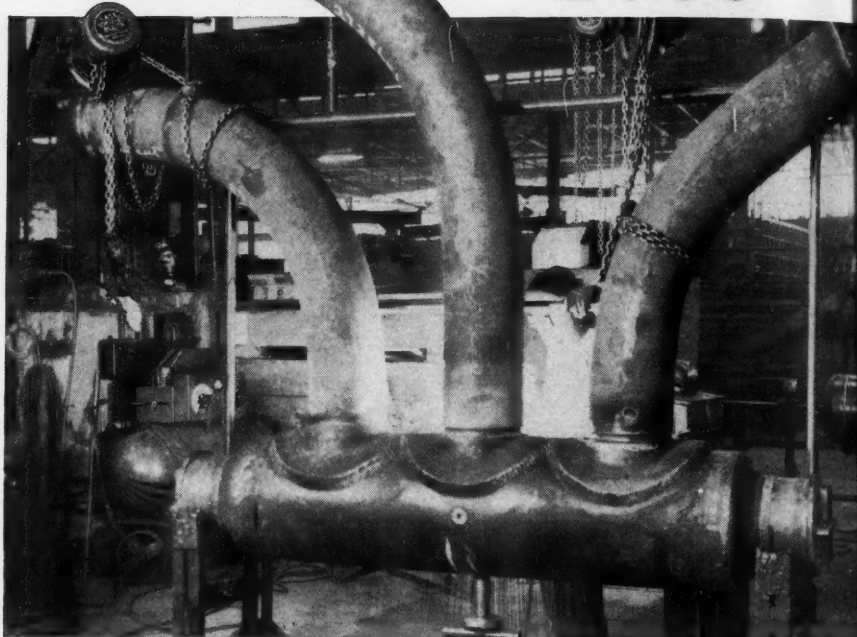
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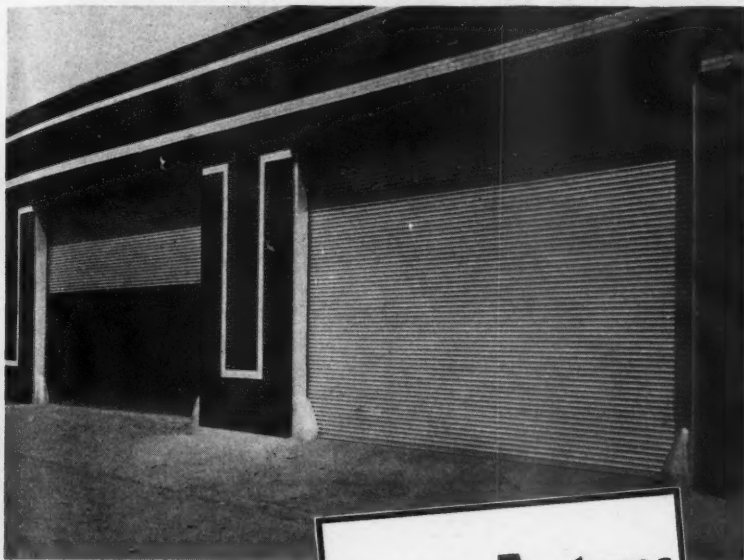
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WHENEVER PIPING IS INVOLVED

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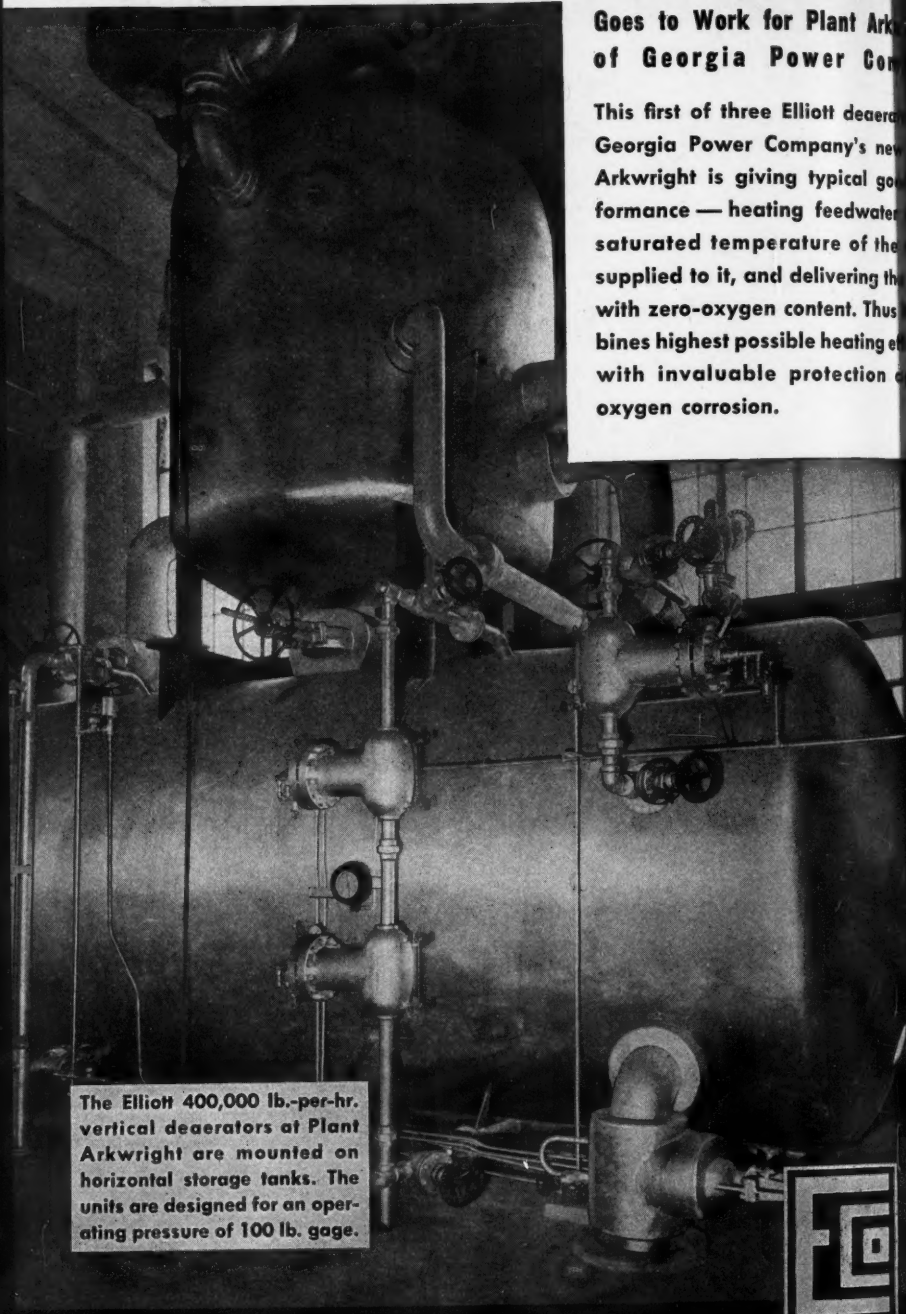
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Utilities Almanack



MARCH



26	T ^h	† Missouri Valley Electric Association opens conference, Kansas City, Mo., 1942. † EEI General Power Conference ends, Chicago, Ill., 1942.
27	F	† EEI Annual Sales Conference ends, Chicago, Ill., 1942.
28	S ^a	† Midwest Power Conference will be held, Chicago, Ill., Apr. 9, 10, 1942.
29	S	† Mid-West Gas Association will hold annual convention, Sioux City, Iowa, Apr. 13-15, 1942.
30	M	† Missouri Association of Public Utilities will hold convention, St. Louis, Mo., Apr. 14, 15, 1942.
31	T ^u	† Nebraska Telephone Association will hold convention, Omaha, Neb., Apr. 14, 15, 1942.



APRIL



1	W	† New England Transit Club will hold meeting, Boston, Mass., Apr. 16, 1942. (P)
2	T ^h	† Kansas Telephone Association starts meeting, Topeka, Kan., 1942.
3	F	† American Transit Association, Bus Division, will hold New England regional conference, Boston, Mass., Apr. 16, 1942.
4	S ^a	† Southeastern Electric Exchange will hold annual conference, Edgewater Park, Miss., Apr. 16, 17, 1942.
5	S	† Gas Meters Association of Florida-Georgia will convene, Savannah, Ga., Apr. 19-21, 1942.
6	M	† Maryland Utilities Association will hold meeting, Baltimore, Md., Apr. 24, 1942.
7	T ^u	† Iowa Independent Telephone Association opens meeting, Des Moines, Iowa, 1942. (C)
8	W	† American Gas Association will hold natural gas convention, New Orleans, La., 1942.



Courtesy, Section of Fine Arts, Public Buildings Administration, Federal Works Agency

Dam Building

*Right-hand panel of a mural by William Gropper
in the new Department of the Interior building,
Washington, D. C.*

Public Utilities

FORTNIGHTLY



VOL. XXIX; No. 7

MARCH 26, 1942

Have We Power to Do the Job?

Reports of a power shortage in America have been so conflicting as to confuse even experts of the industry, let alone the layman. Here is an attempt to analyze the conflicting points of view.

By HERBERT M. BRATTER

It is an interesting fact that as far as the average civilian citizen is concerned, shortages in things he uses or consumes have shown up in almost every other line before shortages in public utility service. That was not the way it was supposed to be—according to the pessimistic forecasts of some economic experts.

More than two years ago we were warned about a "looming" power shortage. It has been looming ever since. More recently we have been warned about shortages in gas and telephone service. They have not yet affected the average civilian.

What has affected the average ci-

vilian? He can't buy a new automobile. He can't buy tires to put on his old one. He cannot build a new house. He cannot repair an old one substantially. He cannot get all the sugar he wants, or all the fuel oil he wants. He has been served definite notice that in months to come government restrictions will interfere more and more with his eating habits, his clothing habits, and his living habits.

So far, this same citizen has never had any cause to worry about a failure of power or gas or telephone service. So far, that record of performance is a tribute to the ability of the utility industries to keep their wheels turning

PUBLIC UTILITIES FORTNIGHTLY

despite increasing demands and material shortages which have hampered them, as well as every other business. But it stands to reason that this cannot go on indefinitely. The recent announcement by William L. Batt, head of the materials division of WPB, to the effect that aluminum plants are going to be built even in the high-cost power areas, because the aluminum industry has run out of low-cost areas, is a clue to what is bound to come eventually.

IT is unfair and perhaps futile to try to assess the blame for inadequate planning of production capacity on any American industry in view of the hectic circumstances of the past year which have caused us to "raise our sights" of armament production, military and naval organization and supply, time and time again. The sole question now is whether we have the necessary electric power to do the job at all. Can we get through? Can we squeak through—with or without rationing—with or without vastly expanded plant construction?

In short, have we the electric power capacity required to carry out the war production program? Experts differ. C. W. Kellogg, president of the Edison Electric Institute, says "Certainly." Chairman Leland Olds of the Federal Power Commission and Thomas R. Tate, director of its national defense power staff, give an equally emphatic "No."

Which is right? The matter is vital to the success of the war.

In peace time, when we see a shortage of power looming, we can plan to expand capacity and to interconnect different areas. Much expansion is

MAR. 26, 1942

now under way. But today expansion has to overcome high hurdles. Priorities on metals are one of them. And then there's the 2-ocean Navy, which monopolizing our heavy turbine builders for the next several years, without allowing anything for repairs to damaged American and other vessels.

In any case, there is the urgency of the situation. Enemies do not wait. It takes years to build hydro plants. Time is our biggest hurdle of all. Necessity to produce the goods is upon us. We have the industrial man power. Have we the horsepower as well?

MR. Kellogg, citing on January 22nd a just-completed survey, stated that ¹

All utility power houses on December 31st had a combined capacity of	44,350,000 kw
The peak load demand on this capacity totaled	35,100,000 kw

Leaving a 1941 surplus of	9,250,000 kw
---------------------------------	--------------

To which will be added through	
1942 new construction	3,664,000 kw
1943 new construction	2,746,000 kw
1944 new construction (probably)	2,746,000 kw

Making the total margin over present demand, to meet war expansion by 1944 ..	18,406,000 kw
-------------------------------------------------------------------------------	---------------

Thus, Mr. Kellogg says, there is margin for expansion of demand amounting to half of the December 1941, rate of demand for "public utility" power; not counting any additional generating capacity being built.

¹ Data from *Edison Electric Institute Bulletin*, Jan. 1942, p. 10.

HAVE WE POWER TO DO THE JOB?

by factories for their own use. Factories generating their own power produced in 1941 two-fifths of all industrial electric power, an important fraction; and expansion of industrial owned power capacity is also under way.

Moreover, adds Mr. Kellogg, recent FPC figures showed about 7,258,000,000 kilowatt hours of energy were consumed in making government products, "while the total disbursements for national defense . . . were \$12,531,000,000 . . . a ratio of six-tenths of a kilowatt hour per dollar of defense expenditures." On that basis, assuming that we attain total war expenditures of \$56,000,000,000 in 1943, the increased war load then will be only 116 to 118 per cent of the 1941 total, as compared with the above capacity-expansion estimates, leaving a comfortable margin.

Mr. Kellogg's January statement conceded that, notwithstanding new installations of generating plant, a few localities affected by drought or by excessive piling up of defense loads may

face a limited amount of power rationing. But he is not alarmed. We may assume that Mr. Kellogg counts on aid for any such affected areas through interconnections with other near-by areas, the shifting of loads to reduce the pressure at peak hours, and if necessary the rationing of power during tight periods. None of these emergency measures appears to be included in his statistics, which would otherwise show an even more comfortable outlook.

As set forth during the testimony of Mr. Olds and Mr. Tate before the House appropriations subcommittee on January 9th, and elsewhere, the FPC holds that

Installed capacity of public utility generating stations on December 31st totaled 42,800,000 kw.

While "dependable" capacity of the major systems was only 36,500,000 kw.

Before Pearl Harbor, based on de-



COMPARISON OF VARIOUS ESTIMATES OF AMERICAN POWER CAPACITY

	Mr. Kellogg (Jan. 22, 1942)	FPC (Mr. Olds) (Jan. 9, 1942)	WPB (Mr. Krug) (Jan. 26, 1942)	OPM (Early Estimate) (Dec. 21, 1941)
<i>Estimated Capacity</i>				
End of 1942	48,014 kw.	39,756 ^a kw.	54,200 kw.	55,276 ^b kw.
1943	50,760 kw.	42,708 ^a kw.	57,200 kw.	57,110 ^b kw.
1944	53,506 kw.		58,450 kw.	57,645 ^b kw.
<i>Estimated Demand</i>				
1942 . . . . .	..	39,581 ^d kw.	:	:
1943	41,067 kw.	42,715 ^d kw.	:	:

^a Dependable capacity.

^b Rough estimate.

^c Minimum.

^d Pre-Pearl Harbor estimate.

^e "No final answer can be given."

PUBLIC UTILITIES FORTNIGHTLY

fense spending of only \$36,000,000 p.a., the FPC estimated "demand to be planned for" as follows:

1941	33,951,000 kw.
1942	39,581,000 kw.
1943	42,715,000 kw.

But that, due to the increased war production plans, critical shortages may be expected this year in various areas, because scheduled additions to the major systems will still leave the maximum "dependable" capacity in 1942 for the country as a whole at only..

39,756,000 kw.

And during 1943 at only

42,708,000 kw.

The total shortage in 1942 will be about

2,000,000 kw.

And in 1943, about

3,500,000 kw.

In a November speech Chairman Olds stated that every dollar of defense expenditure requires 2.75 kilowatt hours of electrical energy. FPC estimates that, by 1943, the Axis will command 200,000,000,000 kilowatt hours of electric power a year, as compared with the United States' 140,000,000,000 kilowatt hours in 1940.

In a January 26th speech, J. A. Krug, chief of the WPB Power Branch, gave the following capacity figures which are reported to include industrial power plant and central station capacity:

There was in January available for service effective power capacity exceeding

51,000,000 kw.

There is under construction another..

10,000,000 kw.

In 1942 capacity will reach about

54,200,000 kw.

That of 1943 will reach

57,200,000 kw.

While by 1944, not counting a number of very important projects recently authorized, we should reach..

58,450,000 kw.

Despite these figures Mr. Krug believes that "stringent limitation measures will be necessary in many strategic war production areas."

(A somewhat different estimate based on earlier data had been released December 21st by OPM, which later became WPB.)

Bringing these various estimates together, we find the results shown in the table outlined on page 401.

THE FPC and Kellogg figures are not strictly comparable. FPC explains that its data purposely look at the dark side of the picture. Whereas the Kellogg "capacity" figures are based upon an average capacity, those of FPC for "dependable capacity" are based upon the lowest water year of record. "Net assured capacity" the FPC considers to be that capacity, below the dependable capacity, which allows for time out in removing and overhauling broken-down or impaired equipment.

The estimates of the WPB include industrial-owned capacity, which the other estimates do not. The difference between the WPB estimates and the previous month's OPM estimates are explained as due to setbacks in construction programs.

Mr. Kellogg's estimates and those of the FPC bear out their respective, opposing conclusions—that there will be or that there won't be enough power capacity. The WPB, in turn, while

HAVE WE POWER TO DO THE JOB?



Expansion the Crux

"THE crux of the conflict between the government's views and those of Mr. Kellogg would seem to lie in the industry's capacity to handle the greatly expanded volume of business the war requires."

for reasons of national safety presenting no general figures on future demand for power, claims that "it is now clear that . . . the shortage will not be overcome by the time the victory program reaches its peak." WPB does present a few estimates indicating shortages to come in some particular areas, but no over-all statistics.

MR. Olds in November, using only pre-Pearl Harbor defense-production plans, stated that

(1) Aluminum and magnesium alone would need 20,000,000 kilowatt hours, or as much as one-seventh of our total 1940 use of electricity.²

(2) The power situation was already becoming tight in at least half of the 48 power supply areas, in many of which "it will be necessary to cut into minimum reserves."

²The 1940 sale of electricity by Class A and Class B electric utilities was 138,190,000,000 kilowatt hours, or, eliminating sales to other electric utilities and interdepartmental, 107,510,000,000 kilowatt hours. Mr. Kellogg, as quoted above, states that two-fifths of all industrial power was (in 1941) generated by industrial consumers thereof. Such power is not included in the statistics given in this footnote.

(3) In 32 of the 48 areas, net assured capacity will "be insufficient to carry the estimated peak loads" by the end of 1942.

(4) In 14 of these areas by the end of 1942 a certain amount of curtailment may be necessary, unless further regional pooling becomes possible, the entire region east of the Mississippi—with the exception of the New York metropolitan area—being in this category.

(5) By 1943, curtailment of non-defense loads will be necessary in various areas. In Mr. Olds' list are, *e.g.*, upstate New York, after allowance of 120,000 kilowatts from the metropolitan area, 55 per cent; Commonwealth & Southern southeastern areas, 50 per cent; Pacific Gas and Electric area, 40 per cent; southern California area, 16 per cent; etc.

(6) Curtailment should not be relied on too heavily to carry defense loads, because the switch to synthetics will call for more electric power.

(7) Droughts, breakdown of old equipment, interruption of fuel supplies, and sabotage are other contingencies which should be allowed for.

IN his testimony before the House appropriations subcommittee, Mr.

PUBLIC UTILITIES FORTNIGHTLY

Olds stated that each region and area must be viewed by itself, "because there is no interconnection of sufficient capacity between regions so that you can use power interchangeably . . ."

Although Mr. Olds cautions that curtailment should not be relied on too heavily, the FPC's estimates of power demand in 1942 and 1943 assume that approximately half the power that is to be available for war production will come through curtailment or displacement of normal uses.³ Rationing will be necessary and will be resorted to, Mr. Olds testified.⁴ In other words, although the capacity estimates of FPC are admittedly conservative, its estimates of demand make allowance for considerable diversion to war work.

Although Mr. Olds has thus given consideration to this factor of *conversion of demand* from civilian to military productive operations, it is a fair question whether he anticipated the considerable amount of such diversion which will actually take place. Of course, it was recognized on all sides that the war demand for electricity was not to be superimposed entirely on top of normal industrial operation. As already stated, Mr. Olds recognized and attempted to make allowance for a changeover of, let us say, a textile plant from the making of civilian items to the manufacture of military items. The machinery would probably not consume any more power, unit for unit, in the second place than it did in the first place although it probably would work more steadily shift for shift.

BUT has sufficient allowance been made for the drastic and some-

what unexpected conversion which is now being, or is about to be, forced upon so many industrial lines? The radio manufacturing business has been told to convert to war work 100 per cent or get out of business. Most are already converted. Manufacture of mechanical refrigeration has been given its Stop Work notice. And how about the additional electricity which these refrigerators and other electrical appliances would have burned if they had been made? The automotive industry, the tool-making industry, and other special lines have already been converted 100 per cent. Others will follow.

In other words, it is no longer a question of a particular plant changing over here and there from civilian to war work. It is a question of entire industries being shoved over into war work with no other alternative but to shut down entirely. Since many of us did not expect such things a few months ago, the question naturally arises whether advance estimates for electric power capacity could have taken full account of such complete compulsory conversion for entire industries—the absolute *termination of the entire civilian operation* of such major industries.

Altogether, the FPC presents a pretty persuasive case for its pessimism, even when one allows for the fact that Chairman Olds has long campaigned for expansion of publicly owned power systems and must inevitably view the present as an occasion for advancing that cause.

Conversely, we have to remember that Mr. Kellogg speaks from the ranks of the industry, and that the wish is often father to the thought.

The WPB's views we may regard as

³ Hearings, p. 1078.

⁴ *Ibid.*, p. 1080.

HAVE WE POWER TO DO THE JOB?

being pretty well divorced from either the public ownership or the private ownership school of thought. WPB's job is to enable us to win the war.

Mr. Krug believes that power shortages in many areas will by 1943 require drastic steps, both in peak months and throughout the year. The main war production centers are where the difficulties may be expected: East of the Mississippi, and in the aluminum and magnesium producing centers elsewhere.

MR. Kellogg's more optimistic position, notwithstanding the admission that a few areas may experience shortages, considers the country very much as a single power unit. If electricity could be transmitted from one end of the country to the other, Mr. Kellogg's general optimism might be accepted unless the "sights" are again raised. It is true that power may be pooled or relayed, and so in effect transmitted long distances. But it is objected by Mr. Krug and Mr. Olds that adequate transmission connections for such relays are not available throughout the country, nor is priority for their construction to be taken for granted.

The crux of the conflict between the government's views and those of Mr. Kellogg would seem to lie in the industry's capacity to handle the greatly

expanded volume of business the war requires.

What is of supreme importance in the war effort is time. Since a power bottleneck or breakdown may be of vital importance if, for example, it delays the aircraft program at some crucial stage in the war, it is highly important that in so far as possible each power area seek to be self-sufficient and possessed of reserves for unforeseeable contingencies. Judging by the way the defense program has expanded since 1940, and by the course of the war since Pearl Harbor, it would be wiser to prepare too much capacity rather than too little.

Even if we see a threat to private ownership of utilities in the war expansion program, if the alternative is to seriously weaken the nation's war potential, the risk is worth while. Indeed, there is no real alternative. Warfare today depends upon industrial power, which in turn depends upon electric power, not merely on numbers of men in uniform. Four hundred million Chinese cannot expel the industrialized Japanese with their bare hands.

As curtailment and rationing of electric power becomes necessary, it will be done by the WPB.

When the southeastern power shortage developed in May, 1941, the gov-



"DOMESTIC consumers are actually subject to involuntary limitation in the use of power, in that household electrical appliances will become difficult to keep in repair, while new refrigerators, ranges, washing and ironing machines, vacuum cleaners, and the like, due to the shortage of raw materials, are becoming scarce."

PUBLIC UTILITIES FORTNIGHTLY

ernment appealed to consumers to conserve electricity. In October the OPM issued Limitation Order L-16 which enjoined any consumer in the affected area from purchasing electric power in excess of such consumer's weekly quota, and enjoined utilities from delivering power in excess of such consumers' quotas. Order L-16 prohibited nonessential uses of electric power during any peak periods which might be designated by the Director of Priorities, and ordered the coöperation of the utilities to that end.

Prohibited uses included: sign, show-window, outline and ornamental, decorative, advertising, outdoor, flood and field lighting for amusement or sports. Exceptions were made where public safety or defense property protection was concerned.

Industrial curtailment requested by power companies in Mississippi, Alabama, and Georgia in May and June of 1941 called for a one-third curtailment between 6 A.M. and 10 P.M. on Monday through Friday, and 6 A.M. to noon on Saturday. Mills obtained full production by scheduling additional shifts nights and week-ends, thereby cutting day loads 10 per cent.

No percentage curtailment of industrial operations proved necessary under OPM Limitation Order L-16 as the additional energy brought into the area by mandatory "power pooling" and the reduction in load which resulted from the so-called "blackout" permitted deferment of the percentage cuts on industries until heavy winter rains improved stream flow conditions.

WHILE economies in domestic and advertising uses of electricity are not to be overlooked, it should be re-

membered that the principal relief is to be sought in the industrial and commercial fields. There are still a good number of one-shift industries which can be moved off the peak. Two-shift industries can be similarly "re-arranged," so that the peak hours of demand for electricity are straddled. In 3-shift industries, an enforced slowdown in peak hours may save from 5 to 8 per cent.

Furnace loads can be dropped entirely during peak hours, and picked up again before a danger point is reached. Cutting off of commercial air conditioning is another possible peak-hour economy. Mandatory rationing is unlikely to be applied to domestic users, but in any areas where power becomes short, coöperation of domestic consumers will be sought.

Domestic consumers are actually subject to involuntary limitation in the use of power, in that household electrical appliances will become difficult to keep in repair, while new refrigerators, ranges, washing and ironing machines, vacuum cleaners, and the like, due to the shortage of raw materials, are becoming scarce. Even in the field of household illumination, metal floor lamps and tungsten-filament bulbs are on the list of restricted manufacture.

Another factor theoretically helping to determine the degree of power shortage in the next few years is the growth of new households. Home construction in defense areas has been very active; but elsewhere it has come to a standstill for lack of materials. One may therefore expect a diminution in the rate of growth in this field, as families double up and newlyweds remain with their parents.

HAVE WE POWER TO DO THE JOB?



The Need for Power and Public Ownership

“EVEN if we see a threat to private ownership of utilities in the war expansion program, if the alternative is to seriously weaken the nation's war potential, the risk is worth while. Indeed, there is no real alternative. Warfare today depends upon industrial power, which in turn depends upon electric power, not merely on numbers of men in uniform.”

Revealing the effects of the war on the normal growth of the number of families are the following Commerce Department early-January estimates of 1942 nonfarm residential building, as compared with the two previous years:

(In Millions of Dollars)			
Description	1940	1941	1942
Private	2,472	2,800	1,200
Public	207	500	600
Total	2,679	3,300	1,800

THE percentage breakdown of 1940 electric energy sales of privately owned Class A and Class B electric utilities does not indicate that very much of the needed war expansion for industry can be accommodated by reduction in residential uses, even though such a reduction may be necessary and very helpful in various areas. In 1940, the FPC reports, “residential or domestic” sales constituted but 13.7 per cent of total kilowatt-hour sales, in-

cluding sales to “other electric utilities” and “interdepartmental.” Eliminating the latter two categories from the 1940 figures, “residential or domestic” sales comprised 17.6 per cent of total sales.

“War time,” the advancing of the clock, saves electricity by reducing the peak load, which generally occurs in the early evening when residential and commercial demand overlap. Further economies from this device are not feasible.

Another, and unwelcome, source of economy of power which cannot easily be estimated statistically is the effect of blackouts on consumption. Should this country experience an air raid on one of the large cities, blackouts may well become the rule in exposed areas, with attendant shrinkage in consumption of power for illumination, subway and street-car movements, etc.

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Should it become necessary to ration domestic consumers, a major problem of enforcement might have to be faced, unless the public coöperated. How could domestic rationing be enforced?

Theoretically, consumers might be limited to a quota, based on the size of the house, or on the average electric bill during the corresponding month of a previous year—but this would entail an enormous amount of record searching.

A use tax might be levied on certain electrical appliances, but there is no record of where such appliances are.

A progressive tax might be levied on the household light bill.

FROM the foregoing, it appears to this writer that the following conclusions are reasonable:

(1) In general, barring droughts or unpredictable breakdowns, the power outlook for 1942 is favorable.

(2) The enormous size of our defense production schedule and the dire military urgency for speedy produc-

tion indicate difficulties in 1943 and afterwards, if not this year. There will be power enough for war production, but not for unrestricted civilian use.

(3) There is nothing to indicate that the war will not carry on for several years, and it is therefore only common sense to make every possible preparation for a sustained and maximum effort. This implies the advisability of starting essential power plants and essential connection lines, even though they will take several years to complete. In doing so, however, the ratio of materials consumed to productivity attained must be considered in determining what is "essential."

(4) We would be extremely negligent if we made no allowances for enemy damage to some of our present installations and connections by sabotage or bombing during the course of the war.

(5) Curtailment and consumer rationing by the WPB are to be expected as and where shortages occur, and coöperation of the utilities in enforcement will be expected.

(6) The outstanding lesson of this war since 1939 may be summarized in a warning: "Expect the unexpected! Be prepared!"



Dam As Tourist Lure

ENGINEERS planning the Central Valley project took into consideration that Shasta dam, the world's second largest dam, would be a major tourist attraction.

Care was taken in excavation for cable towers on the east bank to provide a parking area as large as a city block for the many sight-seers who came to watch the construction work.

A road branches off the main construction road and descends down the Sacramento river canyon to the parking place. A concrete platform was built to cover much of the area, but sections are open to the public and accommodate many automobiles.



War Damage and Insurance

Some of the vital problems which may arise as the result of enemy attack and the injury and destruction of property. Protection of utilities. The English experiences.

By T. N. SANDIFER

IN the national capital, and doubtless in other cities of the country, armed sentries from the Army or other uniformed forces of the United States patrol in front of the local telephone company offices and certain other utilities, public or private.

As evidence of the high strategic importance of such organizations, and their vital relationship to the existence of each community, this is testimonial enough—as protection, however, it is only a starter. Hence, it is not surprising that the United States government felt compelled, almost immediately after the alarms that followed the bombing of Pearl Harbor, to put in effect a blanket insurance program through the Reconstruction Finance Corporation, designed to reassure property owners in threatened areas.

This initial program has now been formally incorporated in legislation which has been considered by both House and Senate committees, and

has been favorably reported to the House for action. It is to be expected that substantially as the House reported it, this bill will become law. It behooves utility executives, therefore, to consider where their installations and operations stand in relation to the bill and the plans for its operation after it becomes law. As it stands it is, in very general terms, leaving to Secretary of Commerce Jesse Jones, who also administers the RFC, the widest latitude in formulating actual policies for insuring private property against damage from enemy attack, after he begins to administer its terms.

Less than a week after Pearl Harbor, Mr. Jones announced that with approval of the President the RFC had created a War Insurance Corporation with \$100,000,000 capital to “provide reasonable protection against losses resulting from enemy attacks” which may be sustained by owners of property in the continental United States,

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through damage to, or destruction to, buildings, structures, and personal property, among other things. For the time being no premium was to be charged. Subsequently he extended this blanket protection to "property owners" in Alaska, Hawaii, the Philippines, Puerto Rico, and the Virgin Islands.

Pointing to his press release announcing this action, he later told the House Banking and Currency Committee, "This press release is an insurance policy."

THE bill, S. 2198, authorizes Mr. Jones to establish a War Damage Corporation, and instead of the initial \$100,000,000 with which to finance its operations as such, the corporation is given \$1,000,000,000, with tacit permission to Mr. Jones to come in for more when it is needed. A number of questions of its application to utilities at once suggest themselves.

First, utilities are of such prime importance in every community that they are the first targets for bombing attacks, or in the event of attacks from the sea, of bombardment. Even before the danger of such attacks arise, however, there is the threat of sabotage, and today no targets are more in danger from this source than the telephone systems, water power, gas, and electric installations in every city, whether inland or on the seaboard.

Another question arises in studying the total amount made available to the War Damage Corporation—a billion dollars. As Senator Danaher, of Connecticut, and naturally insurance-minded, pointed out, "Suppose there were some gasoline companies that had storage tanks on the Pacific coast, ob-

viously open to attack at any time. I assume that many such gasoline and oil storage places are worth, let us say, \$10,000,000. A successful attack on one of them, wiping it out, would lead to a reimbursement of the full sum of \$10,000,000. Is that your plan?"

To which Mr. Jones replied that the percentage to be repaid had not been determined. In other words, as respects utilities, how much in general could a system expect to have available for immediate replacement of destroyed installations? Such action would be urgent and, in certain instances, beyond the immediate resources of a company. How much could be counted on?

FINALLY, are utilities to be allowed to benefit at all from this program? This would seem to be the first question to try to answer. While discussions were proceeding on the scope of the bill the issue was raised by spokesmen for municipal organizations, among them Roy H. Owsley, assistant director of the American Municipal Association, who expressed concern during hearings on the fact that "neither the provisions of the bill nor the pronouncements of the officers of the RFC indicate as yet that there is any definite decision to provide coverage for municipal properties," which he later interpreted to include municipally owned utilities.

Later, discussing this point, Mr. Jones said: "In the various talks I have had with the President about it we have reached no final conclusion as to whether we ought to insure courthouses, city halls, properties of oil companies, airplane factories, or things of that sort, without a premium."

This can be classed as a contingent

WAR DAMAGE AND INSURANCE

attitude; in short, various properties might be included though not specifically mentioned in the various proposals, after paying a suitable premium.

THIS introduces still another question, as to whether a premium is to be universally charged, or only for certain types of protection and, if so, who is to pay it. Before going into this matter, however, a broad thesis for utility participation in the benefits of the program can be developed from the following statement by Stewart P. Hopps, a Rhode Island insurance executive, who was instrumental in broadening the plan:

"I do not think there is any dispute among underwriters — I have never heard of any," he observed, "in arguing what is most susceptible to war risk. The history of this and past wars has proven that areas adjacent to waterworks or railroad terminals are most susceptible, particularly great oil refineries, great utility works, and great railroads; as, for example, on our Pacific coast the Standard Oil Company of California, the Pacific Gas and Electric Company, and the Southern Pacific Railway. Each of those great concerns has over a billion dollars of property value; in other words, the full amount of the original sum asked from Congress."



Q "... utilities are of such prime importance in every community that they are the first targets for bombing attacks, or in the event of attacks from the sea, of bombardment. Even before the danger of such attacks arises, however, there is the threat of sabotage, and today no targets are more in danger from this source than the telephone systems, water power, gas, and electric installations in every city, whether inland or on the seaboard."

FROM this quotation by an expert the following points can be enumerated, each bearing on the need of including utilities as a primary class of beneficiaries:

First, as subject to the greatest risks. The presence of armed soldiers, referred to at the beginning of this, would seem to be sufficient acknowledgment of this point.

Second, as to value of capital properties involved. It was freely admitted by such insurance men as discussed the program with members of the House and Senate that no private companies were in a position to assume, unaided, the type of risks involved in the present war on such properties.

Some companies had written in peace-time policies for limited amounts on various categories of private or public property against damage by "bombardment or war," but insurance men pointed out this was before any war had occurred; and as various proponents of the current plan have said, "This is a different kind of war—an aerial war."

In other words, not only are most private insurance companies not in the same position as the government to assume abnormal risks such as warfare on the present scale entails, but costs for some properties might be prohibitive. Translating the item of cost into

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terms of public interest for a moment, in the case of utilities which might be called on to pay emergency premiums, not only would the high cost of such protection almost arbitrarily have to be passed on to the consumer public, but it is doubtful if the utilities concerned could of themselves provide such protection as would be needed.

ON this point reference is made to the British experience. The type of financial protection under discussion here is not primarily with the interests of stockholders in mind—it contemplates the possibility that a private utility, a street car service, an electric light or gas company will have to restore water mains, street car tracks, electric cables, or whole buildings to contain vital installations, immediately after a bombing attack or, more likely, an extensive piece of nighttime sabotage. Perhaps the same company will be forced to such a duty—it would be an obligatory matter—not just once, but several times. On this basis, it can readily be argued, as both British and American proponents of governmental protection have argued, that the burden belongs “on the broadest back” and in both countries there was unanimity as to whose back was meant, the community’s or, in other words, the public’s. Such has been British experience, and such was the British conclusion as to the answer.

It has been brought out in connection with consideration of the current program of government war-damage protection that the total resources of the stock fire insurance companies of the United States as of the end of last year were just under one billion and a half dollars. This is less than \$500,-

000,000 more than the initial authorization by Congress for the government’s corporation. As stated elsewhere here, there are individual utilities in various sections of the country whose properties exceed a billion dollars’ value. Numerous smaller units, whose tangible installations would be vital to community life, would require substantial parts of such a sum to restore these properties for public service if suddenly obliterated.

IN other words, if utilities were to be eventually excluded from recourse to this fund in event of damage from war action, to whom would they apply?

If, as municipal authorities claimed in behalf of municipal utilities or other publicly owned properties, municipal governments would experience difficulty, or might find it impossible, to assume the cost of repairing or replacing such properties, what would be the plight of the private utility, which cannot vote a public bond issue based on higher taxes, or otherwise suddenly meet major capital costs? Even in time of peace, it was recalled, all except the very largest municipalities have found it not feasible to operate a system of self-insurance. With the break-up of large utility holdings, as required by law, this would seem to rule out the average private utility and, at the same time, makes no unfavorable comparison as to private or municipal ownership—the two are in the same boat here.

This is not to claim that losses by enemy attack will inevitably be of such proportions. The surprise bombing of Honolulu, almost unopposed as it was, was reported by the Hawaiian delegate,



Total Resources of Stock Fire Insurance Companies

"It has been brought out in connection with consideration of the current program of government war-damage protection that the total resources of the stock fire insurance companies of the United States as of the end of last year were just under one billion and a half dollars. This is less than \$500,000,000 more than the initial authorization by Congress for the government's corporation."

Samuel W. King, as having done probably less than \$100,000 damage to private property of all types.

Statistics prepared by the English Board of Trade showed that in the downtown district of London, the so-called "city" which was most persistently bombed and burned worst because of large slum areas, losses were approximately 12 per cent of total values and, in all of the British Empire, the total amount of claims filed in preliminary action so far has been slightly more than \$800,000,000.

By comparison, the loss by fire and earthquake in the San Francisco catastrophe, while perhaps not a parallel case because it occurred in a different era, was 44.2 per cent of the total properties insured, or four times the combined total destruction of bombing raids over Britain, in terms of property loss.

However, regardless of losses which might occur to American companies of

various kinds, and to American citizens as individuals, there is evident intent on the part of the government that such potential liabilities shall be covered by the new corporation. It is further manifest that such property owners are to be assured in advance of such protection, as has been done in fact, and to avoid a recurrence of such haunting appeals as the French spoliation claims. It will be recalled that in an earlier day losses to American property led to claims upon this government last reported at about \$1,500,000, and that for 120 years, first the original claimants, and their descendants for generations, have sought vainly for settlement.

THE government having established its broad policy in the matter, the questions to be determined as this appears, and as future events bring them up, are largely those of detail, but some very important details. As the legislation stands its ap-

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plication will be shaped almost entirely by such decisions on policy as may be made by Mr. Jones primarily, and by authorities of the corporation.

There is again the question as to just who is covered, or whether, specifically, if utilities among others are covered. This may be answered before the article here appears, and at present there would seem to be little room for dispute on the point. Insurance men testified to the willingness of utilities, among large concerns, to pay for insurance, but stressed again the inadequacy of private resources unaided by public support in certain contingencies.

Utilities include not only the everyday facilities of towns and cities, such as street transportation, electric and gas services, telephone systems, lights, but power supplies to defense plants making aluminum, making steel, chemicals, to complicated railroad terminals, cross-country rail transportation, vital for war supplies or troop movements, as well as for carrying mails and ordinary passengers or freight. These facilities have to be maintained in operation, but the means of doing so just cannot be pulled out of anybody's hat.

ASSUMING first that an air raid occurs, it will, by nature of this country's situation, be localized in all probability. This means that the enemy will seek some outstanding target area on one or another coast. Any resulting damage, therefore, will likely be concentrated, and because utility systems tend to serve a given area in each case, this implies that destruction will be felt probably by some one system, or group of systems—rail, telephone, lights, power, or gas. Perhaps such bombing will get the installations of a single

gas company, or the tracks, buildings, and other equipment of a single terminal. The entire property damage of such a raid might be concentrated on one private business, accordingly. This business, a public utility, would have no choice about immediate restoration of all functions.

This brings in another phase of the broad problem—utilities are admittedly under compulsion to restore, with all possible urgency, any of their facilities that may be knocked out; assuming they benefit by coverage in the War Damage Corporation, and that for such coverage there is a premium, should the utility company, big or little, pay all of the premium?

AT first glance the obvious answer would be "No." However, a curious insular sentiment has appeared on the whole subject of premium payments. An inland Senator summed up this viewpoint, for his colleagues at least, when he remarked that people of some inland states might not want insurance, although he expressed his own view that it is a national obligation. From other sections have come such sentiments as this: That communities which for one or another reason are not engaged in war industries should logically not be expected to concern themselves with the ones which were more fortunate in this respect.

The answer to these arguments, of course, is that a community in the exact geographical center of the United States can be very seriously inconvenienced, at the least, by the sabotage of its cooking and heating facilities, the cutting of its telephone communications, the blowing up of a vital railroad bridge, or some such activity.

WAR DAMAGE AND INSURANCE

Troop trains pass everywhere. Sabotage can occur anywhere.

Mr. Jones, who administers the preliminary arrangements and doubtless will continue to supervise the broad operations of the War Damage Corporation when it gets into swing, has indicated the general trend of his opinions on this and other matters which he may be expected, as time goes on, to transform into definite policies.

THINKING solely in terms of bomb insurance, he has conceded at one time or another that it may be difficult to sell the idea to a farmer in Nebraska, a man in Iowa or Kansas, and that we probably cannot have compulsory insurance in this country as England has. He believes such insurance should be carried by the government for a class of beneficiaries not stipulated by groups or in too much detail as yet, but broadly indicated and "perhaps largely at government expense," as he said.

As the bill went to Congress the corporation would have latitude to work with private insurance companies, either through reinsurance features by which perhaps private companies might assume a part of the risk, with government backing, or in some other manner. There has been some divided opinion apparently among insurance people on this particular phase,

with Mr. Jones having gained an impression at one time that private companies did not feel equal to such an undertaking or, at least, not without unduly high premium charges. However, other spokesmen argued for a reinsurance provision on the ground that, given sufficient time to build up a premium reserve, such a procedure might be practicable, but as one man expressed it, "We do need the crutch of a government fund because of the sudden impact on the business and the impossibility of proper reserves on something that has come to you all at once."

AN obvious complication would be the difficulty of charging premiums with private companies engaged in a part of the insuring. In England, where, as pointed out, a compulsory insurance scheme is in effect, it was found necessary to change the insurance laws in some respects, and the American authorities concerned have studied those changes as well as other features of the English experience. At this writing it had not been settled if the United States would charge a premium or, if so, would charge certain categories of beneficiaries a premium and not charge others; or how much it would charge.

The strictly public character of services rendered by utilities would seem



Q"STATISTICS prepared by the English Board of Trade showed that in the downtown district of London, the so-called 'city' which was most persistently bombed and burned worst because of large slum areas, losses were approximately 12 per cent of total values and, in all of the British Empire, the total amount of claims filed in preliminary action so far has been slightly more than \$800,000,000."

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to warrant either the omission of premiums altogether or, if premiums were levied, some system whereby these might be graduated according to the degree of responsibility for public service the utility assumed. For instance, in a preponderant number of American communities today utilities are engaged primarily in war service, either through supplying light, telephone, transportation, and other services to camps or military or naval areas, or in the case of railroads, in hauling military personnel and goods. All policies, so to speak, under this program, are based on the assumption of risk for enemy-inflicted damage.

ON this basis, it was pointed out during consideration of the plan, it might be argued that the government could even demand that such companies, or other parties with a public interest, be insured to protect the government's own interest. Apart from World War Government War Risk Insurance, it is recognized that the contemplated operations are a new field with, as yet, undetermined implications for the future. The ultimate liability the government is undertaking is likewise speculative. However, it has been frequently said that this is not a war of costs.

Assuming first that a premium is to be charged, the English precedent on this is pertinent. Under British procedure, all utilities contribute proportionately to a central fund which is matched by the government, and such fund is available to any utility for repair of war damage.

Based on twenty-five months of war experience, including the blitz period, the British government named a rate

of 1½ per cent from all its citizens. This rate has proven sufficient to cover all property damage through the very heart of blitzed areas, with 15 per cent margin for expenses and a 35 per cent surplus to take care of certain free insurance provisions.

THE vastly different geography of this country, in relation to possible bombing, would suggest a lower premium rate, if any is charged; however, the liability to sabotage is infinitely greater in the United States because of the mixed character of the population. On this point, the Pacific coast area with its large Japanese population is illustrative.

The law, unless changed as it was considered by Congress, referred to damage "from enemy attack" as has been mentioned. Here, again, some interpretation can be expected from the corporation authorities as time goes on.

What is an "enemy attack"?

Doubtless this will be construed to cover at least some forms of sabotage.

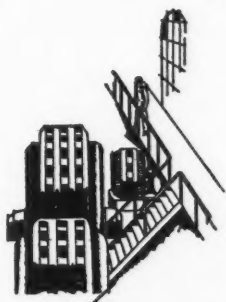
Mr. Jones had not decided, at this writing, how much coverage the government would assume; 100 per cent, 65, 70, or 80 per cent, on such property as may be included in the insurance ultimately. Closely tied to this question, also, is how the damage that occurs will be measured.

The corporation has latitude under the law in its present form, which may be amended before this is in print, to utilize the experience of regular insurance company adjusters. There is every indication that these will be called in to determine damage, and indicate what amounts should be payable.

WAR DAMAGE AND INSURANCE

DISCUSSING angles of this procedure, Mr. Jones has remarked: "If such a plant should be bombed [Pacific coast gasoline company] it would seem reasonable to assume that the government should assume the loss. But when you come to towns and cities where bombing would be concentrated, they might bomb a building that was insured for \$10,000 and it would not be worth \$2,000 because of obsolescence. It would not be our thought that we should pay the total \$10,000 for that building that had been obsolete for twenty years. And yet the owner might have it fully insured. He might, for instance, show reproduction value."

Mr. Jones indicated he has considered such questions as requiring a premium on the amount that the property owner himself insured and paid for or, as stated, just assuming a fixed percentage, to be decided later, of the value or the loss. A point to be considered here, and it has been recognized, is what would be a fair proportion for the government to assume and, on this point, contemplating the relationship of utilities to war efforts as well as community dependence now, a strong argument can be made for utilities, both as participating beneficiaries at a minimum cost and for maximum coverage.

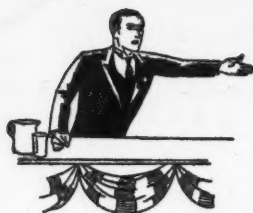


Concentration of Power

"IN a time of rise and establishment of absolutism all over the world, in a time when the bigness of everything and the economic unification of the land continually add to the power of the central as against the local government and increasingly concentrate power in the person of the Chief Executive, we must be vigilant to preserve the fundamental guaranties on which our Federal government rests.

"This means in practice that the press must be vigilant for us. Only if the press is free to perform this function in our policy, can we be sure that wars to maintain democracy do not result in becoming wars to establish autocracy."

—ROSCOE POUND,
Dean, Harvard Law School.



You Couldn't Believe It

But we are at war and no one knows what will be asked of the utilities in 1943.

By HERBERT COREY

NOTHING about this war is credible. A great nation does not want to go to war. It finds itself not only in a war but in the middle of the greatest and most costly war in human history. A second lieutenant is bored by a young corporal who wants to go on listening for enemy planes and tells him to shut down the works and go back to the barracks. That upset some of Leon Henderson's plans. It made Donald Nelson's job more difficult. That second lieutenant smeared the white man's face in the East, changed the course of the war, may have set the mold of world history, forced changes at Possum Kingdom, and did something as yet unseen to the fifteen billion dollar utility industry of the United States. None of these things is probable. Yet they are true.

The odd part—once on a time we would have said the funny part—is that the second lieutenant thought and acted along the same lines on which the rest of our 132,000,000 people were thinking and acting. Only the young corporal was out of step.

MAR. 26, 1942

This article began as an inquiry into the material wants of the utility industry. It promised to be fairly simple. The War Production Board would call on the utilities for so many million kilowatts delivered at such and such factories. To make certain of this delivery the rest of us might be compelled to practice economy. To produce the kilowatts some millions of pounds of copper and other metals would be required by the utilities. Some of their keymen would be exempted from the draft. Structural additions and extensions of the distribution systems would be necessary and as the market is not now invariably receptive to new stock issues, Jesse Jones, banker extraordinary, would lend government money to the amount needed.

THE scheme was an enormous one, but no more complicated than an axe. C. H. Matthiessen, the Director of Priorities in the new WPB set-up, would determine what quantities of what and "Cap" Joseph A. Krug, the power engineer, would have the say

YOU COULDN'T BELIEVE IT

as to whom and when. Then came that frantic two hours at Pearl Harbor and now—or so high authority says—no over-all plan for the utilities can be made. Today's orders are to get more kilowatts out wherever possible. There has been no confusion, all things being considered. The utility heads are working devotedly with the WPB:

"Except here and there some old-fashioned one," said Engineer Krug, "who hasn't quite caught up. Such men are still trying to sell more current—"

But tomorrow's load is to be heavier than today's load and the next day's load and the next day's load will be still heavier. At the time of writing the man in the street appeared to be almost indifferent. Certainly there was little of the enthusiasm that marked the public attitude in 1917. But some of the keymen in the administration are frankly frightened about the situation and doing their best to ready the country for what lies ahead. A great part of American strength lies in our capacity to produce current and a dangerous weakness is that we may not be able to extend that capacity as rapidly as is desirable. By the first of 1943, 60 out of each 100 days' work will be on war production. The goal is 75 days out of the century.

THE men, scattered through the upper brackets of the armed services and the war production organizations, who take such a black view of the possibilities ahead, reason in this way:

"We are pessimists. In war you must constantly look for the worst to come and provide against it.

"The Pearl Harbor defeat reduced the usefulness of our Pacific fleet. Add it to what is left of the British fleet in eastern waters and it is doubtful if there is strength enough to convoy any considerable invading force. The Japanese war fleet can lie with comparative safety behind the protection of mine fields and base its air operations on land. Russia has shown no disposition to go to war on Japan and if China is forced to cease operations the whole East may go up in flames against the white man. Japan's constant effort is to represent this as a racial war. If Japan succeeds in this—and the white man is out-fought and out-maneuvered by the yellow man, as he was in the first days of the eastern war—then we will be fighting on our home grounds for our own protection. If India and Egypt and Africa rebel it is certain that the British cannot come to our aid. It would then be the United States and Canada against the yellow world."

THIS is admittedly the blackest viewpoint possible. Those who present it do not believe that such things may happen, but it is their duty to provide against the incredible. On both coasts precautions are being taken of which little may be said. The Department of Justice is handling a tough job in its effort to remove aliens from 31 key areas on the Pacific coast. The department not only wishes to be kindly in its treatment of these 300,000 Japanese, but recognizes that if any antialien violence were to be reported it would be accepted as evidence that the Japanese are right when they maintain this is a race war. The need for utility extension and coöperation

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is boundless. The WPB does not know how much more current will be needed for war production in 1943:

"How can anyone say? Who can tell what the war will be?"

"Twice as much current as today?"

"No one can say. All we can get. Let it go at that."

To add to today's production of kilowatts more of many things is needed. Copper is the foremost need. Two or three months ago Price Administrator Henderson faced down some of the high-cost copper producers:

"Copper is only worth 14 cents to us," he said. "I'll not pay more."

"We cannot produce at that price," said one man. "It would not cover our costs."

MR. Henderson laughed. The story rests on nothing more substantial than gossip, but is regarded as true. Since then the need for speed has developed. Henderson and Jesse Jones and Donald Nelson and their subordinates are at work on plans which will produce copper without any close reference to costs or profits. Ordinary rules of business prudence have been cast aside, as they always are when the war needs begin to pinch. There is, for instance, a fine deposit of tungsten in one of the Latin American states, of which the Department of Commerce has known for years. Now

the construction of a 300-mile railroad is being seriously considered. Bolivian tin is not of first quality and is hard to smelt. But in war time we need it and are getting it. American utilities are producing all the kilowatt hours we can use now, for both war production and civilian consumption. The normal rate of expansion has been interfered with, of course, but there is reason to believe that there will be in 1943 an ample supply of current, even if that supply is secured by the rigid rationing of all civilian use.

But no one knows how much war will ask of the utilities in 1943. No one dares take a chance. Therefore, so far as can now be seen, the industry will be expanded as rapidly as the meager supply of construction materials in the next twelve months makes possible. No one knows what that means. If the Russians were to break through into Germany, the British throw their home defense army of 2,000,000 into France, the Americans batter down the Japanese fleet, the war might come to an end overnight. No one expects any such thing and so the only plan which can be made is for indefinite expansion.

That will not be easy.

BEFORE looking at the obstacles let us consider what the load will be. No one knows, of course, or can know, but we can get a rough idea. Russia



THE Department of Justice is handling a tough job in its effort to remove aliens from 31 key areas on the Pacific coast. The department not only wishes to be kindly in its treatment of these 300,000 Japanese, but recognizes that if any antialien violence were to be reported it would be accepted as evidence that the Japanese are right when they maintain this is a race war."

YOU COULDN'T BELIEVE IT

has said in a polite but definite way that she wants more aid than we have given her. She fears that many of the Germans do not listen to the speeches made by American statesmen and are therefore not terrified as they should be. She wants tanks, planes, guns, food, automobiles, and soldier clothes. The production of all these things calls for the use of current. China wants the same list. Great Britain wants the same things, with more emphasis on processed and canned foods. Spain, France, and some of the Vichy settlements in Africa may be sent a little food if the sending seems politically wise. Our West coast is pretty ticklish over the prospects of an invasion and is asking for a good many of the same things. Our war production program is more enormous than any country ever dreamed of at any time.

Donald Nelson's War Production Board has gotten under almost full headway. It would be absurd to say that it is at top speed. There are still confusion, bickering, and cross purposes. Nothing else can be expected. But the state of dreadful confusion which existed under the SPAB and the four other boards which the President appointed in the hope that each newcomer could untangle its predecessors has been damped down. Nelson has finally become personally tough:

"He was always tough in buying and selling," said a friend. "That's why he was worth big money to Sears Roebuck. But he used to let his friends impose on him. They would come in and sit around and waste his time—"

"You gotta quit it," said one of his staff.

"I will," said Nelson.

"Let me see that schedule of ap-

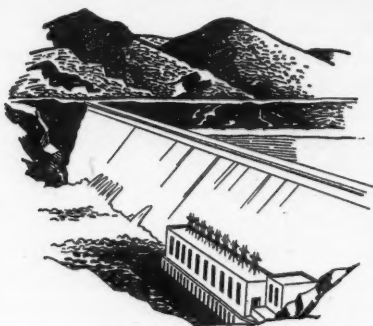
pointments," said the staff man. He tore off the page and called the secretary:

"No appointments today."

NELSON winced but he took it. He may get back to the old, easy-going system. He does not like to make speeches and has promised that he will not make any more speeches, but if some one asks him just at the right moment he will agree to go out in the cornfields and talk about his job. This fault of time wasting is as serious with Nelson as Knudsen's inability to insist on his own way proved to be. On the other hand, he works long hours at his office and is fast and tough in his decisions. He has split the WPB into a dozen or so sections, put a man at the head of each, and given that man authority. A super-brain trust is in process of formation, but it will be unlike any of its numerous predecessors:

"There will be seven or eight men. Nelson will pick them himself; there will be no publicity, and they will not hang around the main office. Their job will be to find fault, to investigate men and industries, and to tell Nelson what to do. He will do it without bothering to read the evidence. He could not do that if he did not have complete confidence in his men."

NELSON's plan is to deal with the utilities in the most direct way possible. That is his plan with all the industries. The men who know how will go on doing what they know how to do, under certain rules as to production, time, materials, etc. He will not send in one of the puffy little bureaucrats from Washington to do his petty bossing. At present Nelson stands well



Utility's Value to Nation

"THE utility's value to the nation is rated by the extent to which it is engaged on war work. The community is entitled to light, heat, and power and to use of the telephone by the same scale. Washington, D. C., which contains the government offices and centralized activities, would be the last city in the country to suffer from any curtailment. Another city of 1,000,000 inhabitants, more or less, might be blacked out ruthlessly if occasion arose."

with Congress for two reasons. He is a businessman. He talks the kind of talk the average Congressman likes, and he does not try to tell Congress its business. The second reason is that he is believed to be outside the circle of administration politicians.

"My job is to produce," he has said repeatedly. "If some one gets hurt I'm terribly sorry but I'm not going to stay and cry with him. That is some one else's job."

It would be possible to print the WPB's rules as to priorities and allocations for the utilities, including the communications and natural gas, but it hardly seems worth while. So far as has been discovered they follow the rule of common sense. The utility's value to the nation is rated by the ex-

tent to which it is engaged on war work. The community is entitled to light, heat, and power and to use of the telephone by the same scale. Washington, D. C., which contains the government offices and centralized activities, would be the last city in the country to suffer from any curtailment. Another city of 1,000,000 inhabitants, more or less, might be blacked out ruthlessly if occasion arose.

PUBLICLY owned utilities are on the same footing as privately owned. Neither may extend their services without permission. They are permitted to use materials needed for maintenance and repairs, but under no conditions may they extend their inventories of materials on hand. Certain consumers

YOU COULDN'T BELIEVE IT

are permitted to get materials used for repairs and maintenance because of the community need. Hospitals, transportation systems, charitable institutions, communications, irrigation plants are of this order. New construction there will not be except by permission of Engineer Krug of the WPB. In all cases the relation of the utility to the military situation will be studied first. The civilian need expect only such consideration as the military authorities think it wise to give. John Doe's telephone may be cut off; he may be refused gas except during stated hours; his fuel oil use may be rationed, and gasoline obtained only on a gas ticket. It is Nelson's belief, and Nelson is the boss just now, that rationing may be the only way in which a difficult problem can be effectively handled:

"We do not want to ration anyone or anything," he is quoted as saying, "we will not until it is forced on us. Then we will."

The WPB has tried to favor the utilities and the communications industries and for precisely the same reason. They are needed in war work. But as the business of producing for war extends its scope, both utilities and communications are bound to suffer.

THE Maritime Commission, for instance, proposes to launch two ships a day in 1943. It has already found extreme difficulty in finding the copper, other metals, and rubber which are needed in shipbuilding. Some of its new ships are equipped with reciprocating engines which were out of date twenty years ago, because the Navy has taken all the turbines. A utility generator must have turbine engines. If no turbine engine can be

found the utility puts up with a reciprocating engine, just as the Maritime Commission does. Those who see the situation from the outside, instead of from the inside, are inclined to think that the shortages must be made up for in 1943 by withholding from the civilian.

"In Europe people simply go without."

Trams in London were jam-packed—no worse than the New York subway because they could not be—even before the war. Electric light bulbs were small and infrequent and the current was cut off early in most towns. Only the hotels and theaters were furnished with light. Stores shuttered their windows instead of putting in neon tubes to show off the goods. Housewives and servants walked home from market carrying baskets. The coldblooded took a hot water bottle to bed instead of a heating pad. As a rule the telephone service was atrocious. The Paris company used to make a point of it:

"If we gave a better service we would have more customers. Now, our experience is, and we show you on the books, that the more customers we have the more complaints come in—"

WE might sink to that low level of comfort but we would not stay there. We have had a taste of the luxury of warmed houses and automatic hot water, fast transportation. Already the labs have discovered something like 100 substitutes for aluminum and the other metals and alloys used in telephones and around the house. Plastic cans will take the place of the tin can to which we are used. A school of

PUBLIC UTILITIES FORTNIGHTLY

optimists even insists that the utilities will live happily after the war. They point out that by the time we get well set in paying for the adventure the taxes will be so high that the men and women who never knowingly paid taxes before will begin to feel them. In the years immediately following the close of hostilities, they say, there will be a tremendous boom in this country. We will be out of everything from soap that lathers to automobiles. The country will have grown used to high wages, which were needed to buy the necessities of life, and will wish to keep the wages high.

But there will be a unanimous call for lower taxes:

"Let's sell or rent these great hydro-electric plants the government-owners built with our money, and which do not pay taxes. Whatever we get for them can be set off against the debt or the interest burden."

But for the immediate future the men who look at the situation calmly see hard work and privation ahead. Congressional investigations into the so-called sugar shortage, the rubber rationing, and the copper situation are probabilities of the future, and may result in some easing in the long run. For the next two years these men think we will go very short indeed. In spite of the grain and meat carryover we may find our dinner tables cleared of everything except essentials; our roofs will go unpatched; and our pants very well patched indeed. We may burn one bulb instead of six, walk instead of ride, and put the early morning foot on a cold floor.

As our output of war goods grows conditions here will get worse. One hears very little of lend-lease now. We send the money and the goods where we think they will do us the most good and no one talks of repayment. Every ship built or sunk, every shell fired, every barracks or war-worker's home built subtracts something from the total of things the utilities must have. Yet the ships must be built and the utilities must go on. The WPB is scouring Latin America and our own backyards for the materials that must be found. The one way of getting all the things that are needed may be in economizing on all the things we used to take for granted. Leon Henderson's army of ration-fixers will number not less than 100,000 and other armies of the same kind are in process of creation.

The new War Department building will house 30,000 clerks. It will be too small when it is completed. Government's nonwar activities are being sent away from Washington and in Washington some girl clerks sleep four in a room. Congress has appropriated so many billion dollars that cannot possibly be spent for years in advance that it has surrendered that control of the purse which is its only check on the executive. No one complains or criticizes.

The last twenty-odd billion dollar bill went through the Senate on a unanimous voice vote and the House just nodded and, no doubt, that is as it should be in war time. As I said at the outset, nothing about this war is credible.

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Wire and Wireless Communication

PRESIDENT Roosevelt on March 7th delegated to the Defense Communications Board powers to control, operate, or close all telegraph, telephone, and other wire communications facilities. In a previous order, dated December 10, 1941, the President had delegated similar powers to the board over radio communications.

Although the presidential action gives the Communications Board full powers to commandeer and operate all wire facilities in this country, officials immediately disclaimed any intention of any large-scale intervention in private operations of communications companies.

Under terms of the order, however, the Army, Navy, or any other branch of the government will be able to move in quickly to break any bottlenecks in communications which might threaten national defense. Board spokesmen, however, said that in such cases private companies would be reimbursed for use of commandeered facilities.

Additionally, however, the new powers tighten the Federal censorship powers. Under the executive order, there no longer could be any challenge of government right to control transmission of any and all information which United States censors deem harmful to the national interest or the war effort.

The Defense Communications Board is headed by Chairman James Lawrence Fly of the Federal Communications Commission. Its other members include Assistant Secretary of Treasury Herbert

Gaston; Major General Dawson Olmstead, chief signal officer of the Army; Captain Joseph R. Redman, director of naval communications; Assistant Secretary of State Breckinridge Long, chief of the State Department division of communications; and committees representing all phases of the communications industry.

* * * *

THE War Production Board on March 3, 1942, acted to save substantial amounts of critical materials by drastically limiting the future engineering practices of telephone companies and their plans for betterment and relocation of plant facilities.

General Conservation Order L-50 also curtails installations of luxury types of telephones in business offices and households throughout the country. It requires telephone companies to refrain from future conversion of manual offices to dial offices and replacement of manual private branch exchanges by dial exchanges, and installation of extension telephones in private homes, unless they are essential for public health and safety.

The program, based upon recommendations recently made by the Defense Communications Board, is designed to save annually approximately 35,500 tons of lead, 29,000 tons of iron and steel, 29,500 tons of copper, 650 tons of zinc, 540 tons of crude rubber, and large amounts of other scarce materials.

PUBLIC UTILITIES FORTNIGHTLY

Under the terms of the order, which does not apply to telephone installations for the official use of the armed services, except installation of hand sets to replace wall and desk types, companies estimating material requirements for installations of new facilities or equipment or expansion of existing facilities are required to limit their margins for expected growth of service requirements to a maximum of three years. This is designed to prevent use of materials for long-range estimates of future requirements and constitutes a drastic change in present engineering practices. Telephone companies, for most plant items, normally anticipate service requirements for a period of from eight to ten years.

IN addition to growth margin limitations, the order requires all telephone companies, unless otherwise authorized by WPB, to:

(1) Discontinue the conversion of manual offices to dial offices, or the conversion of one type of manual office to another type.

(2) Discontinue the replacement of manual private branch exchanges by dial exchanges.

(3) Discontinue the replacement of existing wall and desk types of subscribers' instruments with hand sets, except in any instance where any such subscriber's instrument is beyond repair.

(4) Discontinue the installation of extension telephones in residences except when such extensions are necessary for use of those who are charged with responsibilities for the public health, welfare, or security.

(5) Employ party-line service in those instances where party-line installation will conserve scarce and critical materials.

(6) Discontinue replacements or additions to existing plant for the betterment or relocations of such plant, except to replacements essential to the maintenance or protection of service.

(7) Conserve or reuse existing telephone equipment and facilities, whenever such conservation or reuse will reduce the use of scarce materials.

The order, effective immediately and in force until revoked, does not affect changes in equipment or facilities which actually were under way at the time of its issuance. Whether the order would exempt equipment in the process of manufacture but not completed or delivered was very doubtful, however.

In the text of the order, the telephone companies were directed (unless otherwise authorized by the WPB Director of Industry Operations):

... In submitting to the War Production Board, directly or indirectly, applications for material requirements for installations of new facilities or equipment or expansion of existing facilities or equipment, to limit the margins for expected growth of service requirements to a maximum of three years, but not to exceed one-half the period for which provision normally is made; provided however that this requirement shall not require the limitation of the margin of growth to a period less than one year, and provided further that conductors in cables designed or suitable for use in carrier current systems may be provided (but not equipped) in such numbers that when fully utilized by present or immediately contemplated carrier current system technique they will provide for a margin of expected growth of one-half the normal provision for such growth, even though such provision exceeds a 3-year period.

* * * *

ON the promise that every manufacturer would be filled to capacity with war orders, the War Production Board on March 7th ordered complete cessation of the production of radios and phonographs, effective April 22nd. The order, it said, would affect about fifty-five companies, which will have made about three million radio sets in this year before the cut-off date. These firms already hold about half a billion dollars' worth of contracts.

The WPB said a conversion plan had been worked out so that there would be war work for every firm, either as a prime or a subcontractor. The conversion is expected to be 95 per cent complete by next June 30th, it was said.

Robert Berner, chief of the WPB radio section, declared that the conversion would not result in unemployment

WIRE AND WIRELESS COMMUNICATION

of the industry's 30,000 workers for any appreciable period. In fact, he said, employment in the industry would greatly increase under military orders.

War items which the industry will make are airplane-detecting equipment and military transmitting and receiving sets. It is estimated that by the time the shut-off date arrives, America's youngest large consumers' goods industry will have equipped 87 per cent of the nation's homes with 60,000,000 sets in operation. Provision is made to manufacture replacement parts in order to keep existing home radios in operation.

* * * *

ALTHOUGH no further progress had been reported during the first two weeks of March on the resolution by Representative Cox (Democrat of Georgia) before the House Rules Committee, to investigate the FCC, observers on Capitol Hill were of the opinion that the committee would take favorable action on the resolution at an early date. It was also believed that the House Committee on Interstate and Foreign Commerce would soon set a date for hearings on the bill by Representative Sanders (Democrat of Louisiana) to reorganize the FCC into two branches—one for radio broadcasting and the other for the regulation of telephone, telegraph, and cable companies.

The resolution by Representative Cox was expected to carry authorization of an amount in the neighborhood of \$25,000 to provide for a special investigating committee. In the case of the bill by Representative Sanders, hearings would have been started several weeks ago had it not been that the subcommittees of the House Interstate and Foreign Commerce Committee were actively engaged in considering emergency measures.

Notwithstanding the expected favorable action on the Cox resolution by the House Rules Committee, there was still a possibility that a combination of both the Cox and Sanders objectives might be reached through joint procedure. The presence of strong administration opposition to the investigation urged by Rep-

resentative Cox at this time raised some doubt as to whether the House membership would approve the action of the Rules Committee on a floor vote.

* * * *

THE right of hotels in New York state to charge more than scheduled rates on local and long-distance telephone calls was denied by a court of appeals ruling in Albany on March 5th. The ruling upheld the state public service commission which ordered hotels to adhere to the current schedule, filed with the commission by the New York Telephone Company. The schedule allows a 10-cent charge for each local call made from a hotel room, and a surcharge of 5 cents on long-distance tolls under 50 cents, and 10 cents on tolls over 50 cents.

Officials of the telephone company said that all hotels, as far as the company knew, have followed this schedule since the supreme court, in Albany, issued an order last July restraining them from charging more than the scheduled rates.

The court of appeals ruling upheld decisions of the Albany County Supreme Court and the appellate division. The appeal was taken jointly by the New York Telephone Company and a group of New York city hotel companies, including the Bowman-Biltmore Hotels Corporation, Hotel Roosevelt, Inc., Southworth Management Corporation, and the New Yorker Hotel Corporation. Officials of the Hotel Association of New York declined to discuss the possible effect of the ruling upon the telephone service given by the hotels to their guests.

Frank Boland, counsel for the hotels, said there was pending before the state commission a proceeding seeking a reduction in rentals charged by the telephone company for telephone equipment in the hotels and compensation for the hotels for acting as agents of the telephone company in the collection of tolls.

Under the court of appeals decision, the commission may penalize hotels making an extra service charge above the scheduled rates by requiring the telephone company to take away their telephone service.

PUBLIC UTILITIES FORTNIGHTLY

	Present Tax	Proposed Tax
a. Telephone toll service	24¢-50¢ tax 5¢ Additional 5¢ tax on each 50¢	25¢-39¢ tax 5¢ 40¢-64¢ tax 10¢ 65¢-99¢ tax 15¢ 5¢ additional tax for each 25¢ or fraction thereof
b. Telegrams and cablegrams	10% of charge	15% of charge
c. Leased wires, etc.	10% of charge	15% of charge
d. Local telephone bill and messages 24¢ or less	6% of charge	10% of charge
e. Coin-operated t hones	Exempt	10% of service charge



Telephone company officials said that 5 cents of the 10-cent charge allowed on local calls goes to the hotels for their services, as do the surcharges permitted on long-distance calls.

* * * *

SECRETARY of the Treasury Morgenthau, in his appearance before the House Ways and Means Committee on March 3rd, proposed the above changes in taxes on communications services.

* * * *

THE Ohio Public Utilities Commission early in March had under consideration for future decision an application of the Ohio Bell Telephone Company, seeking permission to increase substantially its present charges for connecting, moving, and changing telephone service, lines, and equipment.

Fees for changes under the new proposed schedule would be hiked from \$1 to \$2 for residences and to \$2.50 for business phones throughout the company's territory. For new or renewed installations, a general charge of \$1 would be raised to \$4.50 for residence and \$6 for business phones in the area served by Columbus, Dayton, Cleveland, Canton, Akron, Toledo, and Youngstown exchanges.

Installations would be raised to \$3.50 for residence phones and \$5 for business in Springfield, Zanesville, Martins Ferry, Bellaire, Steubenville, and Belpre areas,

and to \$2.50 and \$4 for other exchanges.

Ralph Eide, company president, said cost of changes exceeded revenues for the service by \$2,130,000 last year and that the deficit will be more than \$1,000,000 even if the proposed rates are approved. Eide said the new schedules would properly place a fairer and greater portion of expense on short-term subscribers, that higher wages and taxes are putting a serious drain on the company's net income, and that the proposed changes will "assist materially in conserving plant margins which rapidly are being depleted and for the restoration of which essential materials are not available."

* * * *

"SALARY Report of Telephone and Telegraph Carriers and Holding Companies for 1940," released by the Federal Communications Commission on March 3rd, shows 632 officials in those groups drew salaries of \$10,000 or more for 1940 as contrasted with 593 the year previous.

In 1940 a total of 575 telephone officials and 57 telegraph officials were so paid, compared with 543 and 50, respectively, in 1939. In 1940 7 telephone and telegraph officials received salaries of \$62,500 and over. Two telephone officials were paid \$66,000, and 4 others received \$86,333, \$90,000, \$100,000, and \$206,250, respectively. One telegraph official was paid \$85,000.

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WIRE AND WIRELESS COMMUNICATION

A "WHISPER detector" is going to work for the government in its fight against sabotage, the Stromberg-Carlson Telephone Manufacturing Company revealed recently.

Supersensitive microphones will be installed at concealed positions around fences of arms plants. If anyone tampers with the fence, the noise of the intruder is heard in the plant's guardhouse. A snapped wire sounds like a thunder-clap to the guard. The microphone is that sensitive.

The system can also be geared to relays that will cause noises to flash a red light, according to Lee McCanne, Stromberg-Carlson's assistant general manager. Mr. McCanne also revealed that test installations of these new alarms have been made in the Midwest. They are intended to supplement regular patrol activities. One microphone, he said, would protect as much as 3,000 feet of fence, although the microphones are placed much closer together.

McCanne disclosed that a 1-A-1 priority rating had been assigned to this infallible signal by the government.

Stromberg engineers, McCanne pointed out, have cooperated closely with engineers from the Brush Development laboratories of Cleveland and Astatic Microphone Company of Youngstown, Ohio, at laboratories in Rochester. The Rochester firm is serving as distributor and manufactures speakers and amplifiers used in the system.

* * * *

A 3-JUDGE Federal court, on March 2nd, stayed the FCC from enforcing until at least May 1st its proposed restrictions on chain broadcasting. The Columbia Broadcasting System and the National Broadcasting Company won the stay pending their appeal to the United States Supreme Court from the 3-judge court's decision dismissing their petition for an injunction. NBC and CBS contested the FCC order barring exclusive network affiliate station contracts and prohibiting any company from owning two networks as an unauthorized attempt

to enforce the Federal antitrust laws.

The 3-judge court, in dismissing the companies' petition for an injunction, said it lacked jurisdiction. In its decision granting the stay, the court said:

Considering on the one hand that if the regulations are enforced, the networks will be obliged to revise their whole plan of operations to their great disadvantage, and on the other, that the commission itself gave no evidence before these actions were commenced that the proposed changes were of such immediate and pressing importance that a further delay of two months will be a serious injury to the public, it seems to us that we should use our discretion in the plaintiffs' favor to stay enforcement of the regulation until they can argue the case.

* * * *

THE request of the Mountain States Telephone & Telegraph Company that the Utah Public Service Commission dismiss its complaint charging unreasonable discrimination between the long-distance telephone toll rates of the company in Utah and the interstate long-distance toll rates of the American Telephone and Telegraph Company's long lines department, was dismissed late last month. This was taken to mean that the commission would proceed with its investigation of these rates.

The commission said it was not seeking to involve the company in a long and costly rate proceeding which would involve the use of personnel needed for defense work, but sought merely to eliminate "a discrimination which appears unjust against the users of intrastate toll service in Utah."

* * * *

STATION representatives of the Blue Network Company, Inc., a newly organized subsidiary of Radio Corporation of America, meeting in Toronto recently, were of the general belief that radio time sales will continue to hold up well. For the first two months of this year, despite the fact that production of many civilian lines has either been stopped completely or sharply curtailed, radio time sales showed modest gains over comparable periods a year ago when a new peak was established.



Financial News and Comment

By OWEN ELY

Utility Securities Hard Hit by Proposed Tax Rates; Maxi- mum Rate 88½ Per Cent

SECRETARY Morgenthau's proposed war tax increases, presented to Congress on March 3rd, fell like a bombshell on holders of many utility securities. While the decline in prices was concentrated largely in holding company bonds and preferred stocks, nevertheless the Dow-Jones utilities average dropped to a new all-time low of 12.20. Below are some of the outstanding declines.

While Wall Street had been worrying about Mr. Morgenthau's well-known predilection for taxing all corporate earnings over 6 per cent on investment, such a tax would not affect utility stocks as much as it would some of the blue ribbon industrials, which have been earning substantial percentages on invested capital. Predictions had been made by some leading statisticians in the financial district, for example, that the Dow-Jones industrial average might decline to around 72 if the 6 per cent profits dead line became effective (this figure representing about 12 times estimated share earnings for the stocks composing that average). With the majority of operating utility companies limited to around a 6 per cent return on their rate base, such a tax would probably have hit industrials harder than utilities and rails.

Nevertheless, the utilities were probably hurt more by last year's excess profits tax—because of the fact that it was made applicable to the balance earned before normal tax—than most investors realize. This is probably due to the fact that the earnings credit or allowance did not work out as favorably as would, on the surface, have been expected. While the average utility earns only 6 per cent or less on its book investment, the investment reported to the Treasury may be considerably lower than that in the published balance sheet, due to the much heavier depreciation reserves which have been accrued in the reports to the Treasury in order to effect tax savings in the past. Thus a large proportion of the utility operating companies have been forced to pay excess profits taxes despite the general feeling that they should prove exempt. The 25 per cent increase in this tax as proposed by Mr. Morgenthau will thus bear heavily on these companies.

BUT for the rank and file of utilities, especially those not affected by the excess profits tax, the jump of 77 per cent in the combined normal and surtax rate (from 31 to 55 per cent of net taxable income after deduction of the excess profits tax) is a blow right in the financial solar plexus. Mr. Morgenthau's proposal, if enacted, would seem even more effective than certain policies of the SEC



Standard Gas debenture 6s	68	60	13
Electric Bond and Share \$6 pfd.	56½	51	11
American Gas & Electric	19	15½	18
American Power & Light \$6 pfd.	22½	19½	13
Commonwealth & Southern pfd.	38½	31	20

Close March 3	Close March 6	Per Cent Decline
68	60	13
56½	51	11
19	15½	18
22½	19½	13
38½	31	20

MAR. 26, 1942

FINANCIAL NEWS AND COMMENT

Company	1941 Share Earnings	Under New Taxes	Est. Decrease Per Cent	Current Dividend Rate
Amer. Gas & Electric	\$2.72	\$1.44	47%	\$2.00
Amer. Tel. & Tel.	10.26	6.46	36	9.00
Columbia Gas & Elec. ....	.33	D.22	..	..
Commonwealth & Southern pfd.	8.10	1.40	83	3.00
Commonwealth Edison	2.10	1.30	38	1.80
Connecticut L. & P.	2.94	2.02	31	3.00
Consolidated Edison	2.00	1.00	50	1.60
Detroit Edison	1.96	1.47	25	1.40
Engineers Public Service	1.27	D.50	..	..
Public Service of N. J.	2.04	.36	82	1.20



in undermining security values. This is particularly true of holding company securities, since much dividend income might be cut off. Even Electric Bond and Share would apparently be hard hit, for it might be taxed 55 per cent on interest received—which makes up over two-thirds of its income (although on dividends received, only 15 per cent would be taxable at 55 per cent). This instance is used only in illustration; due to the intricacies of the tax laws, Electric Bond and Share might be able to reduce its tax bill considerably by various methods, such as taking losses on security holdings, etc.

The new tax program would have the effect of "freezing" the earnings of many operating utility companies for the duration of the war. When the three new tax rates together absorb almost nine-tenths of the income in excess of the earned credit, both rate increases and increased costs would have comparatively little effect on net earnings. With earnings thus stabilized and with dividends aligned to the new level of earnings, it might be argued that investors would regain their confidence in the stocks of these companies. There is, however, a serious defect in this reasoning—there is no assurance that the "stabilized" net income would be paid out in dividends, since it might be needed for new construction. Due to market conditions and stringent SEC requirements as to debt ratios, etc., bond financing may prove inadequate to take care of such requirements. A possible offsetting factor is the fact that all

but vital expansion work may be curtailed by priorities.

Wall Street statisticians, feverishly at work to estimate the effect of the new tax on utility earnings, have produced some startling results. For example, *The Wall Street Journal* published the above estimates.

There was some speculation in the Street as to whether certain holding companies would be able to continue payments on senior obligations. For example, Standard Gas and Electric, while admittedly in a strong cash position, might find current income insufficient to balance interest payments on its debentures if the dividend from Philadelphia Company should be jeopardized by the new tax rates. Electric Bond and Share and Commonwealth & Southern, if the new rates were enacted and current estimates of their effect should prove correct, might have difficulty in paying the present dividends on their preferred stocks, unless they drew on cash reserves.

However, for those companies fortified with cash and lucky enough to secure SEC approval, the present decline might present a golden opportunity to buy in their own senior obligations at very substantial discounts. Electric Bond and Share, which exhausted the greater part of its \$5,000,000 cash funds late last year, has obtained grudging SEC permission to use another \$2,000,000 in open market purchases of its preferred. United Corporation, which applied to the SEC about four months ago to use \$2,500,000 cash to buy in its preferred

PUBLIC UTILITIES FORTNIGHTLY

stock, has as yet received no answer. Standard Gas and Electric has apparently had to adhere to the year's delay provided in the indenture before it can apply the cash from the sale of 590,527 shares of San Diego Gas & Electric to retirement of its own debentures, despite the fact that the SEC last June promised that "there are adequate remedies under § 11" to dispose of this troublesome indenture clause. No holding company can retire more than 2 per cent of any outstanding security issue during the course of a year without SEC permission. And the commission is usually reluctant to grant special permission because of fears that some security holders will be discriminated against—since remaining security holders naturally benefit when part of the issue is retired below liquidating value (or below parity in the case of redeemable issues).

WALL Street is probably taking an overly pessimistic view of the new taxes. There are several offsetting factors, the effects of which should not be overlooked: (1) Mr. Morgenthau apparently intends to grant the privilege of filing consolidated system returns not only for computing payment of excess profits taxes (currently allowed) but also for computing the normal and surtaxes (which may be of considerable benefit to systems with weak subsidiaries); (2) a special tax credit would be allowed when the surtax net income for the current year has dropped in comparison to the income for the pre-war period; (3) utilities whose earnings after taxes dropped below a fair return on investment are entitled to ask local commissions for rate increases; (4) the heavy tax burden will largely immunize the utilities against any sharp rise in the cost of operation.

Corporation tax changes are highly difficult to compute even when experts devote all their time to one company or system. Various choices with respect to the basis of computing taxable net income mean that each possible combination and permutation of figures must be worked out to the last decimal in order

that the most advantageous choice can be made. In a system comprising many companies this is obviously a laborious and lengthy job. Moreover, few if any corporations divulge their income statements and property accounts as submitted to the Treasury. Many utility companies do not bother to break down their reported tax figures as between Federal and other taxes, and as between Federal income taxes and excess profits taxes. Companies which had sizeable refunding operations have obtained substantial tax credits during the year; some companies offset these by a special amortization charge, others did not. All these facts add to the difficulties of the security analyst in attempting to prognosticate the future course of earnings.

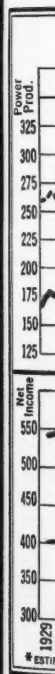
Some utility companies had already in 1942 been accruing income taxes at a 40 or 45 per cent rate. An increase from 31 per cent to 40 per cent had already been largely discounted by the security markets. (See discussion of earnings and prices in the January 15th FORTNIGHTLY, pages 103-104.) But the proposed increase in rates would absorb an additional 24 per cent of net income instead of 9 per cent as anticipated. This obviously called for a new and drastic readjustment in security prices—assuming that Congress follows the recommendations of the Treasury Department.

The failure of National Power & Light Company to effect an exchange of more than about 9 per cent of its preferred stock for Houston Lighting & Power, together with the abandonment of the \$60,000,000 Union Electric common stock offering, indicates the increasing difficulties which beset the SEC's dual program of (1) liquidation of holding companies' senior securities and (2) increase in the common stock proportion of operating companies' capitalization. Either the SEC, the Treasury Department, and the state commissions must get together on an over-all policy to stabilize utility earnings, or the enforcement of § 11 must seemingly be deferred to post-war days. In any event, in the present jittery state of investors' nerves, any substantial program involving sale or distribution of

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FINANCIAL NEWS AND COMMENT

utility common stocks to the public must be temporarily deferred.

The commission's continued delays in working out the details of possible application of "Deep Rock" policy with respect to the huge Electric Bond and Share system—perhaps unavoidable due to the complexity of the issues involved, and the desire to avoid litigation in the courts—doubtless continue to be a disturbing market factor, though overshadowed for the moment by the tax question and the news from the Orient.

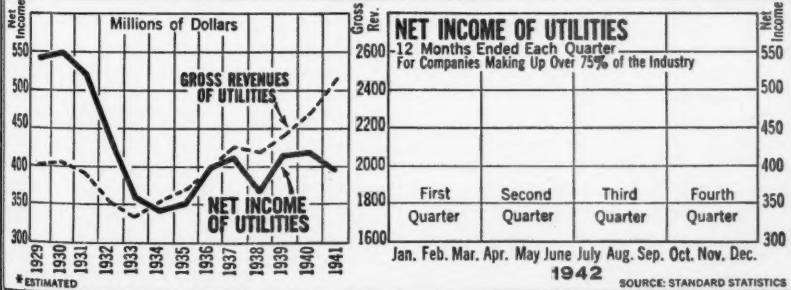
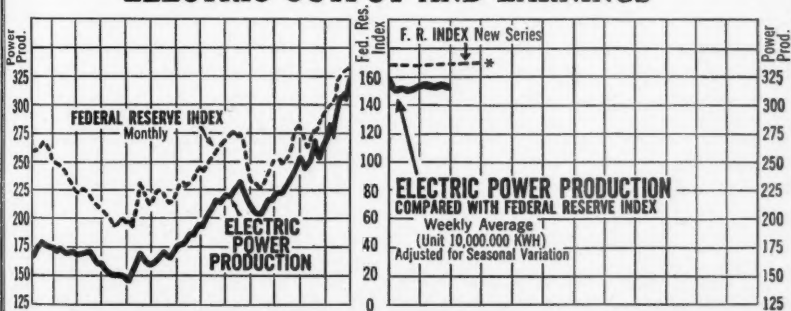
Bill Offered to Suspend the "Death Sentence"

A BILL was introduced in the House on March 9th by Representative Paddock of Illinois to suspend the "death sentence" provisions of the Util-

ity Act for the duration of the war. The measure provides that "Notwithstanding the provision of § 11 of the Public Utility Holding Company Act of 1935, the Securities and Exchange Commission is hereby authorized to suspend the exercise of its functions and duties under such section to such extent as, in its judgment, will be not inconsistent with the public interest." Mr. Paddock stated that the bill was designed to prevent forcing of public sale of utility operating companies under present adverse market conditions, "resulting in excessive and unjust losses to many thousands of investors."

The bill was referred to the House Committee on Interstate and Foreign Commerce, but Chairman Lea of that committee did not anticipate that the bill would be taken up in the near future since the committee was at work on

ELECTRIC OUTPUT AND EARNINGS



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amendments to the Securities acts. Regardless of the reaction of the House, Representative Paddock's bill, in all probability, is hardly strong enough to change the present status of affairs. The SEC has not as yet "forced" a sale of any company though it has exerted considerable pressure on utility holding companies to effect such sales. It has been generally understood that where definite sales of outlying companies have been ordered, the holding company involved has at least a year to make the sale, with another year's extension of time in the discretion of the commission. Doubtless the commission has enough power under the act to permit still further delay. Mr. Paddock's bill would, however, be of value as a clear intimation to the commission of Congress' feeling in the matter, and there would seem to be no reason why a bill involving such a simple matter could not be reported out of committee with little delay and without interfering with the more detailed and intricate problems involved in the many proposed amendments to the Securities acts.

PROBABLY the major issue between the holding companies and the commission in the past year has been the tendency of the latter to place an embargo on refunding operations unless they were accompanied by drastic revisions of capital structure, balance sheet set-up, etc. In some cases, where the matter was not too involved (as with certain Commonwealth & Southern subsidiaries) the difficulties were not insuperable; in others, such as Columbia Gas, Florida Power, United Gas, etc., the obstacles were too great to hurdle and the valuable opportunity for refunding several hundred million dollars' securities was temporarily lost. Congress might well give the commission some advice on this matter.

While the outlook for any refunding seems dubious at this moment because of the new difficulty over the Morgenthau tax proposals, nevertheless it might be possible to revive some of these proposals at a later date if the commission would modify its attitude and separate reform procedure from refunding operations.

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The commission may realize by now that withholding of permission to refund has proved a much less effective "club" to obtain reforms than some of the other methods employed, such as the dividend embargo.

Northern Natural Gas Company

(This is the fourth article in a series of brief descriptions of leading natural gas companies.)

NORTHERN Natural Gas, \$59,000,000 distributing company, was incorporated in 1930, and until last year its common stock was entirely held by other utilities—30 per cent by Lone Star Gas and 35 per cent each by North American Light & Power and United Light & Railways. In April, 1941, the company registered 70 per cent of the stock (representing the two last-named holdings) for sale, but half of this was withdrawn and on September 10th a syndicate headed by Blyth & Co. offered the remaining block at \$32 per share, representing the holdings of United Light & Railways Company. The stock, which was split five-for-one last June, is quoted over the counter around 27.

Earnings per share on the stock in recent years have been as follows:

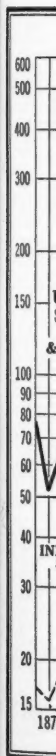
1940	\$3.65
1939	3.56
1938	2.65
1937	2.82
1936	2.16

The latest interim figures are those for the first half of 1941, when \$2.28 was earned (no comparison was made available).

Lone Star Gas late in February filed a system simplification plan with the SEC, including a proposal to offer its own stockholders its holdings of Northern Natural Gas at \$19 a share (the approximate original cost) at a ratio of one Northern for 18 Lone Star. At present prices the value of the rights would be in the neighborhood of $\frac{1}{8}$. Any stock not taken by stockholders would be sold in the open market. This plan, if approved

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FINANCIAL NEWS AND COMMENT

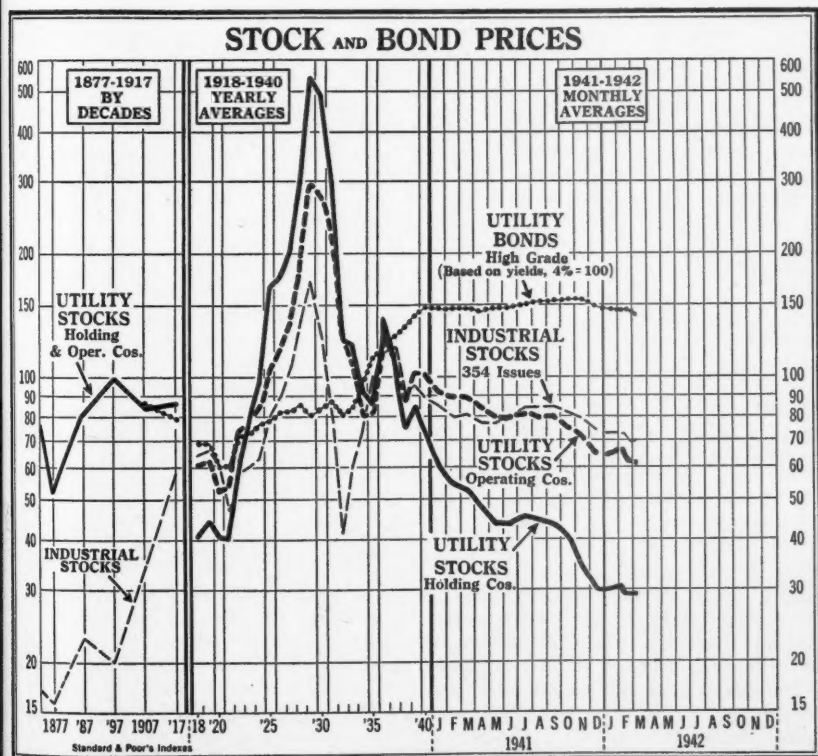
by the SEC and consummated, might increase the number of shares and the distribution sufficiently to facilitate listing on the Curb or the Stock Exchange.

Northern's capitalization consists of \$16,000,000 first 3½s due 1954 and 1,015,000 shares of common stock. The balance sheet of February 28, 1941, also disclosed a \$5,000,000 2½ per cent serial bank loan; including this loan, the funded debt amounted to about 50 per cent of net plant account. The current position was favorable, with cash slightly in excess of current liabilities.

THE company buys about 90 per cent of its natural gas from nonaffiliated interests in the Panhandle (Texas) and Hugoton (Kansas) fields, producing the

remaining 10 per cent from its own 52 wells (wholly or partially owned). Through the system's 2,800 miles of transmission lines (the main line is 24 inches in diameter) the gas is piped to Kansas, Nebraska, Iowa, South Dakota, and Minnesota. The principal cities supplied at wholesale are Omaha, Lincoln, Council Bluffs, Des Moines, Sioux City, Mason City, Fort Dodge, Sioux Falls, Minneapolis, and Rochester.

The company has two subsidiaries, Argus National Gas and Peoples Natural Gas, all the securities of each company being owned by Northern. While details are not available these subsidiaries appear to have a minor share in the system operations, selling gas at retail in 81 municipalities.



PUBLIC UTILITIES FORTNIGHTLY

About 55 per cent of the company's volume sales in 1940 were at wholesale to companies, at town borders, but these companies included five affiliates; about 37 per cent was sold direct to industrial consumers. Total industrial sales (including resales by distributing companies) amounted to 59 per cent of the total. Retail sales were about 8 per cent of the total, about evenly divided between domestic and commercial.

Total revenues were obtained about as follows in 1940 (000 omitted):

	Wholesale*	Retail	Total
Domestic	\$2,010	\$1,230	\$3,240
Commercial ...	1,218	660	1,878
Industrial	2,033	3,228	5,261
Other	2,228	46	2,274
Total	\$7,489	\$5,164	\$12,653
Miscellaneous, etc.		204	
Total gross earnings			\$12,857

*Town border sales.

The common stock is currently selling at about 7.5 times last year's earnings, while Southern Natural Gas is selling at only about 3.3 times earnings. However, Southern's earnings showed a substantial decline in the twelve months ended September 30th, while Northern's six months' figure seemed to promise a moderate gain for the year. A further explanation of the price earnings differential is the dividend rate: Northern paid the equivalent of \$2.60 in 1941 (the rate in the final quarter being 90 cents), while Southern paid only \$1.

Pennsylvania Electric Financing Successful

THE carefully prepared Pennsylvania Electric financing — \$32,500,000 bonds and 34,000 shares of preferred stock offered March 4th—was as successful as the \$80,000,000 Alabama Power offering in January. Like the latter issue the "Penn Elecs" proved popular with institutions, and overselling by a few dealers forced the early bid two points over the offering price, the premium declining later. The success of these issues was in contrast to the diffi-

culty encountered in completing the sale of the Panhandle Eastern Pipe Line preferred stock offering.

The success of the Pennsylvania Electric offering revived the question of handling another big piece of Associated Gas & Electric financing, \$40,000,000 Metropolitan Edison bonds, which was first discussed last fall. So far as the character of the issue is concerned, there should be no difficulty, as the present 4½s are rated AA and the debt ratio (to total capital) is only about 41 per cent, though the ratio to revised plant account might be considerably higher. Depreciation reserve is around 19 per cent, which seems satisfactory. The ratio of depreciation and maintenance to gross in 1941 was about 17.3 per cent, which was ample. Fixed charges were earned in that year about 3.37 times before income tax, 2.70 after the tax.

The main stumbling block to putting through a deal would seem to be the SEC's desire to clean up the Associated picture before permitting refunding operations. Presumably the Pennsylvania Electric was allowed to go ahead because it was accompanied by a merger program and thus marked system progress. Metropolitan owns about \$15,000,000 Mohawk Valley (now NY PA NJ Utilities) bonds, also \$3,602,000 Associated Electric bonds, 100,000 shares of Staten Island Edison common, and some other odds and ends of system securities. The SEC would doubtless like to get the NY PA NJ bonds back in the hands of that company, where they could be canceled, and the Associated Electric bonds should also go back to that company.

It is possible, however, that difficulties might arise in connection with the Metropolitan financing, unless the SEC has changed its attitude somewhat. Moreover, the general decline in utility securities due to the Morgenthau tax proposals may defer all financing for the moment, until Congress' reaction is determined and the security markets have steadied somewhat.

The several big offerings now in registration seem likely to remain there for some time.



What Others Think

Weighing Government Expenditures In the War Scales



THE President has requested \$28,500,000,000 in supplemental appropriations for the year 1942 and 1943. The request gave rise to the usual outcries from the economy bloc in Congress—or what is left of it—that the Federal government is not bearing down on non-war expenditures. The President in turn renewed his perennial question, "Where would you cut?"

This, inferentially at least, places the responsibility on Congress to initiate economy. Initiating economy measures has never been a strong point with Congress. Certainly it has never been a politically popular one. Yet, if either Congress or the Executive wanted to get an unbiased outline of where to cut, it could obtain the same from the recent timely booklet published by the Brookings Institution, entitled "Curtailment of Non-Defense Expenditures," by Henry P. Seidemann.

It is clear that cutting nondefense expenditures could only pare a fraction from the total cost of the war effort. But even so, such economies are all the more needed by very reason of the back-breaking burden on the American taxpayer. The Brookings Institution booklet is succinct and specific. It goes into the actual expenditures of the Federal government since 1935, with estimates for 1942, and announces categorically that more than \$2,000,000,000 can be saved without interfering with essential government services. Here are the proposed savings in a table of general classifications:

(Millions
of Dollars)

Flood control, rivers and harbors, etc.	\$350
Agricultural assistance	625
Public domain	19
Public welfare and relief	615

Highway development	171
Executive and other general activi- ties	5
Transfer of costs to state and local governments	300
Total	\$2,085

BY way of justifying these savings, Mr. Seidemann argues that all new construction for flood control, reclamation, irrigation, rivers and harbors which does not *directly and immediately* contribute to the war effort should be postponed. Farm aid can be cut down because of rising high prices. Expenses for recreation subsidies (public domain) can be cut out for the duration.

As to public welfare and relief, Mr. Seidemann's book points out that large reductions can be made as the result of millions of young men, who have been employed in war work or inducted directly into the armed services. They are being taken care of. Furthermore, some of the Federal aid given to states for relief can be cut down because such states are now in a better position to take care of their own social obligations.

By way of criticism of the book, it might be fairly said that such an important and complicated subject is covered too briefly for satisfactory justification of each of the proposed economies. But, on the other hand, it is the concise nature of the tabulation and the disinterested way in which it is presented which give one confidence in the fairness and scientific approach of the author. Aside from that, the proposals constitute a very convincing argument, except, perhaps, to those who do not believe in economizing at all, but think that government spending is beneficial *per se*.

Also, Mr. Seidemann's booklet stays clear of the temptation to grind specific

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axes against the economy grindstone. He refrains from the temptation of advocating any definite solution as the only way to do it.

LESS broad in its scope, but very enlightening in its conclusions, was the recent report of the Budget Bureau classifying the various public agencies "in respect to their relative importance to the war program." This was in response to an order by the Executive to define the relative significance of various government bureaus in terms of the nation's war effort.

The ostensible purpose of the Budget Bureau report was to fix priorities for the transfer of government employees to war work. But it is noteworthy that of the recent group of Federal agencies that were sent out of Washington to relieve congestion in the nation's capital, all but two—Patent Office and the REA—are to be found in the lowest grade of war importance and those two are in the next lowest grade. Altogether, the Budget Bureau segregated the various government agencies into five classes. Class 1, which is quite small, consists of direct war agen-

cies: Navy, Army, WPB, Lend-Lease, etc. The line-up in the utility field—power-producing, policy-making, regulation—is as follows:

- Class 2: Bonneville Power Administration.
Bureau of Reclamation, power projects.
Corps of Engineers (Army), power projects.
{ Defense Communications Board.
{ Federal Communications Commission, defense activities.
Tennessee Valley Authority.
- Class 3: Federal Power Commission.
National Power Policy Commission.
Power Division, Interior Department.
- Class 4: Rural Electrification Administration.
National Resources Planning Board.
- Class 5: Securities and Exchange Commission.
Federal Communications Commission, nondefense activities.
Electric Home and Farm Authority.

The SEC, which is in the lowest category, is another of the Federal agencies which has been sent out of Washington. No separate classification was made for the FPC National Defense Power Unit.

How to Keep Gas Appliances in Service

As the relentless march of war priorities cuts down and cuts off the flow of utility appliances, the problem of keeping the outstanding gas ranges, gas refrigerators, and so forth in operation becomes a matter of primary importance to operating gas utilities. Soon there will be no more gas ranges, refrigerators, and so forth for sale. The few appliances that can be rehabilitated and resold will hardly suffice to meet the demand of a public which has been educated for more than a decade by a careful promotional merchandising effort.

Indeed, the financial stake of the operating gas utility is even more vital than the need of the average householder to get a new gas range in place of an older one every so often. Unless *some kind of*

a gas range, be it new or old, is kept in full and satisfactory service condition, the gas company is going to feel it where it hurts the most—on the monthly bill for domestic gas consumption. The same thing, of course, goes for water heaters and other gas appliances.

To complicate this situation, a number of gas utilities will have to assume the responsibility for seeing that the most effective type of repair and maintenance is established and carried on in the community. Where gas utilities have never followed a merchandising policy of their own they will have to work out some arrangement that will insure the rendition of such continuous and adequate repair and maintenance service by independent plumbers and gas fitters.

WHAT OTHERS THINK



"I DON'T WANT ANY GAS MASK—MY GAS BILL IS TOO HIGH ALREADY"

FURTHERMORE, regardless of the merchandising policy, the current trend among both utilities and independent appliance dealers is to discontinue sales organizations with their overhead—now that there soon may be no more appliances to sell. And since repair and maintenance have frequently been carried along as a side line of appliance sales effort, repair and maintenance service will have to be reorganized to stand on its own feet or the main problem will not be solved.

It is for this reason that the advent of an up-to-date handbook on gas appliance servicing is especially welcome. It was prepared by Professor Osborne B. Tabor of the Boston University College of Business Administration. It was pre-

pared and edited by a committee of engineers and service executives of the New England Gas Association. It would be somewhat out of character in this publication to go into the details of the technical treatment of gas appliance servicing which is contained in Professor Tabor's book. But a brief outline of its contents and style will give the reader a rough idea of what to expect from this volume.

There are seventeen chapters which take the gas appliance serviceman through all the technical experiences he is likely to encounter from the time he presses the door bell of a customer's house to the time he files the work card with the management. The first two chapters deal with such items as training

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servicemen, personal appearance, entering and leaving the customer's premises, talking with the customer, meter installations, merchandising and service policies, operating costs, accounting and collection policies, and an elementary education on the chemistry of fuel combustion and gas manufacturing.

The next three chapters deal with the anatomy of the gas utility system and cover such matters as pressure, distribution, loss of molecular activity and heat, and the chemistry of gas combustion. Chapters VI to XI narrow the education to the gas appliance—things to know about burners, especially range burners, pilots, cocks, regulators, thermal expansion, and automatic range control.

CHAPTERS XII to XIV go into domestic water heating, including such problems as eccentric thermostats, erratic pilot valves, and the temperamental side-arm tank heater. The concluding chapter deals with househeating in a

complete way. Gas refrigerators are not covered in the book because the one company which manufactures them furnishes a complete and satisfactory service manual of its own. Specialized commercial or industrial appliances were likewise omitted for obvious reasons. The book is clearly printed in nontechnical language with a plenitude of excellent illustrations.

Altogether, it is an eminently practical volume whose appearance is so timely that it should be a godsend for a number of worried operating gas utilities that are trying to keep the domestic load up and the complaints down during the present hectic era.

—F. X. W.

GAS APPLIANCE SERVING. Prepared by Professor Osborne B. Tabor. Published by the Bureau of Business Research, Boston University College of Business Administration, Boston, Mass. Price, single copies \$7.50; 2 to 20 copies \$6; more than 20 copies \$5 each.

Cooperation Needed in Holding Company Act Administration

THE recent collapse of a plan to dispose of the North American Company's holdings of stock in Union Electric Company of Missouri—an operating subsidiary—has provoked new speculation as to the administration of the so-called death sentence clause of the Holding Company Act. Speculation along this line has been to the effect that drastic enforcement of § 11 by the Securities and Exchange Commission ought to be suspended for the duration of the war.

In the North American Case the parent holding company discovered that it would be impossible to obtain a fair price for stock of its operating company, although it is a sound and rapidly expanding property. What happened in this case may well happen again when other holding companies attempt to comply with regulations of the law under the existing disturbed conditions. A recent editorial in *The Washington* (D. C.) *Post* dis-

cussed this situation in part as follows:

The case for suspension of the death sentence clause has been put most convincingly by a New England investment trust in a letter of protest addressed to the SEC. "Not many months ago," the letter reads, "the United States government advanced several hundreds of millions of dollars to the British government in order to hold up forced liquidation of American securities owned by British investors. Are not American investors in public utility securities entitled to at least equal treatment?" There can be but one answer to that question. The government should postpone reforms of our corporate set-up that require large-scale liquidation of holdings on an unreceptive war-disturbed market.

THE problem is not an easy one and solution is not going to be anything so simple as a flat and forthright freezing order from the SEC on integration proceedings.

First of all, it is exceedingly doubtful if the SEC could lawfully issue such an

WHAT OTHERS THINK

order. It is under a statutory mandate from Congress which has neither been repealed by Congress nor revoked or suspended by the war emergency. On the other hand it is equally obvious that something has got to be done to allow the present management of the utility industry to concentrate its attention on its own business which is so vital to the war effort.

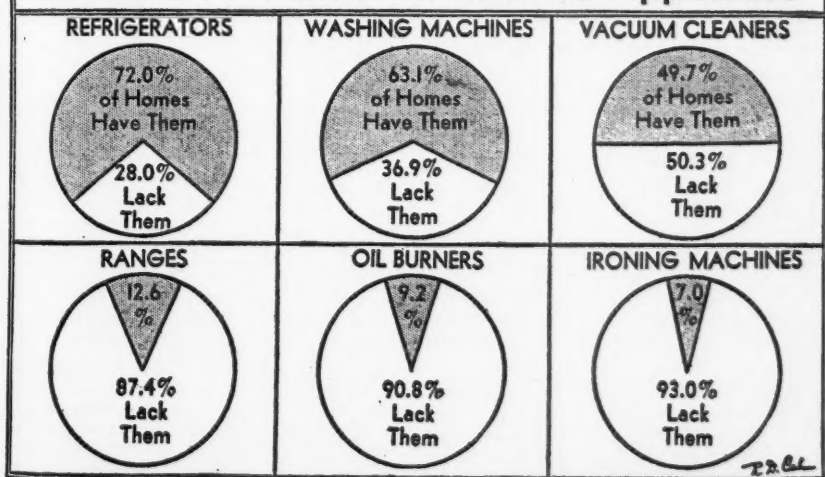
The situation is going to call for much more of a spirit of understanding and mutual trust between regulatory and managerial authorities than has been evidenced in the past. In this respect, a little pamphlet, entitled "A Statement of Faith," which has been circulated to some extent in interested quarters during recent weeks, might well prove a starting point for a regulatory *rapprochement*. This little pamphlet was written by George W. Cadmus, head of a Philadelphia accounting and engineering firm of that name. Cadmus believes that the present time constitutes a trial period during which it can be demonstrated "to the Federal executive, legislative, and judicial trinity, and to public opinion"

(1) whether the utility industry can set its house in order as provided by law; (2) whether there is sufficient regulatory power to compel compliance, if necessary; (3) whether private ownership can function in the public interest in a substantially satisfactory manner.

Cadmus believes in the personal angle—that the "motives for men's behavior are the things that matter most." It follows that management must "aggressively dramatize its integrity" to correct public opinion toward management. Regulation, he says, is admittedly necessary to protect against the abuse of managerial power, and, by the same token, it is necessary to protect management from unfair political attack.

IN other words, it is only through regulation that management can get a "clean bill of health." Granting all this, it is submitted that with proper cooperation from management it is still possible for regulation "to avoid rulings and decisions which management might sincerely believe to be inadvisable in the public interest."

Saturation of Market for Electrical Appliances



PUBLIC UTILITIES FORTNIGHTLY

To arrive at such an effective coöperative spirit, however, a disinterested approach is necessary. Mr. Cadmus believes that "no attention should be paid to the effect of legislation *per se*; i. e., whether the effects are pleasing or displeasing to us personally—*changes in laws are often displeasing.*"

The objective is harmony for the common good. It will be accomplished by neither miracle nor magic. It will be accomplished by good will and common sense, exercised by men acting with mutual trust and enthusiasm. Elaborating on this necessary disinterested spirit, the author states his belief

That in the utilities' portion of the national economy, taken in the broadest sense, one unity must prevail; and this is a natural unity of interest regardless of the fact that the living members of this unity may (1) not always agree as to decisions affecting directly their own apparently separate interest; and (2) not even recognize their essential unity; and may even vehemently deny this; but, united they are, tied up in the same bundle, members of the one body to the extent that hurt to one member cannot escape being a hurt to all ultimately; and benefits accrue to all in like manner.

What is this "unity"? Who is included in it? In the order of their responsibilities, Cadmus lists four interests: (1) Federal and state regulation; (2) management and employees; (3) capital investment; (4) consumers. The consumers are included because they pay the bills and make the very existence of the first three classes possible. But otherwise, as to matters of financial enterprise, they are mostly bystanders. Even so, their political force has been a paramount influence.

IN the past they, the consumers, have seen some things in the industry which have not pleased them. But the picture which they have seen has not always been fair.

The action of a minority has been taken as typical, says Mr. Cadmus. The fact that the utility industry has "on balance conferred enormous benefits on the national economy is rarely mentioned, even in utility circles."

Another element, according to this writer, which is rarely recognized, is the possibility that local management and operating engineers would probably not have been found responsible for undesirable pyramiding, service charges, and unequal voting control had they been continuously in charge.

Regulation, which is now unanimously regarded as essential, likewise has its responsibilities. Regulation calls for "devoted public servants, men of wisdom, willing to accept the small material return offered by the Republic." Fortunately, such men are available. Unquestionably the picture before the eyes of the customer has changed for the better, but regulation continues to be "*the utilities' ultimate shield and defense.*"

Through personal contact and conference method—the process of give and take—integration may still be made to work, in the opinion of Mr. Cadmus. But we require "systematic contact" with regulation. Management cannot permit differences to arise over minor matters, certainly not over major matters. Management must include in its way of life provision for systematically making available to regulatory authorities knowledge of economics and finance which has been found practicable in utility operations.

The writer visualizes regulation as a sort of head of the family with management, a part of the family, sympathetically achieving a practical obedience to utility legislation.

SUMMING up, Mr. Cadmus finds that management must look four ways simultaneously:

First—To regulation, because favorable or unfavorable publicity will emanate therefrom; and lawful orders.

Second—To consumers, because customers are the only people from whose support our continuance is possible.

Third—To owners, who can replace us if we do not satisfy the first and second above.

Fourth—To those who work with us every day, because they will know before anyone else if we are efficient, and because management cannot effect results without the substantial liking and respect of the rank and file.

WHAT OTHERS THINK



"SO! HIROHITO'S LITTLE FACT-FINDING COMMITTEE!"

Chronicle of a Manufacturing Dynasty

BECAUSE of the prominence of the Bartlett-Hayward Division of the Koppers Company in the gas manufacturing industry, a recent volume setting forth the history of that century-old organization should be of interest to those concerned with the regulation and operation of public utilities. The book was prepared by Ferdinand C. Latrobe for employees of the company, under the direction of Walter F. Perkins, vice president of the Koppers Company and manager of the Bartlett-Hayward Division. Chapters V, VI, and VIII are devoted entirely to gas plants.

The book is so unlike similar volume

treatment of individual industrial organizations—so informal, quaint, and chatty—that it makes entertaining reading even for those who have had no special reason to become familiar with the famous Baltimore branch of the Koppers Company.

For example, much of the discussion is devoted to the sporting taste of its founders—a taste epitomized by the two black cast-iron dogs which stand guard outside the portals of the Bartlett-Hayward building in Baltimore. These statues are likenesses of Sailor and Canton, names of the two Newfoundland dogs brought to Maryland in 1845 to

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mix with local breeds and found the famous line of Chesapeake retrievers—the world's best amphibious hunting dog.

The activities of the Haywards and Bartletts and later members of the firm in breeding Chesapeake retrievers and enjoying their sporting companionship are recounted along with such surprising information as how, when, and where to shoot wild ducks; also, how to cook, serve, and eat them. Similar information is given concerning other succulent Maryland delicacies, such as Tangier oysters and Diamondback terrapin.

BUT not all of the informal charm of "Iron Men and Their Dogs" has to do with the capture and disposal of wild game and seafood. There is much of historical interest in the business activities of Bartlett-Hayward. It was in 1832 that George M. Hayward emigrated from New Hampshire to Baltimore to enter the stove business. The early firm of Hayward & Friend, stove makers, gave way to Hayward & Company in 1840, and later, 1848, to Hayward, Bartlett & Company.

It was this organization which brought out in 1846 the celebrated Latrobe stove, less well known as the Baltimore heater and predecessor of the hot air furnace. The inventor was a lawyer, H. B. Latrobe, the counsel for the Baltimore & Ohio Railroad. Latrobe's original idea was simply to surprise his wife upon her return from a winter's visit to her family's home in Natchez, to which she annually retreated from the rigors of the Baltimore climate. Latrobe became a household word in residential heating around the turn of the century and is still in use in some of the older and smaller homes in the East.

The name of Bartlett entered the business when David L. Bartlett, who had formerly made stoves in New England, moved to Baltimore and became a partner in the business. The business of the company also expanded with the iron age that centered in Baltimore during the middle Nineteenth century. It was an era not only of stove building and larger heating apparatus, but railroad building,

architectural iron works, and quaint ornamental iron works—of which we see so many interesting relics today.

The statues of Sailor and Canton are merely typical of the thousands of dogs, deer, elk, grill-work summer houses, and countless other Victorian iron images and structures which dotted the lawns, parks, and estates of the gay nineties. The famed glass and cast-iron Crystal Palace in London, which succumbed to a Nazi bomber during the current war, was a product of the wrought-iron skill that became a specialty of Hayward and Bartlett.

IN 1880 a reorganized Bartlett, Hayward & Company, having done much to build up the railroad system of the nation through its manufacture of locomotives, turned to the rapidly expanding gas utility field of that day. During that year they turned out a water gas plant for the Spanish American Light & Power Company in Havana, Cuba. They have been at this business ever since. During that time this organization has built 541 water tank gas holders, including many of the largest gas holders in the world, with a combined capacity of 76,911,061 feet. The first holder was built under the supervision of Thomas J. Hayward and George B. Geddes, who proceeded under the "rule of thumb" with no guidance but an ancient set of English drawings imported for a structure built in 1847.

Subsequent events of the nation led the organization into still different industrial fields. Sugar beet refining, munitions and ordnance in World War I, the fast self-aligning coupling for railroads, the waterless gas holder of more recent years, electric welding, bronze alloy founding, and, of course, the company is naturally heavily engaged in war orders for munitions and ordnance in the present war effort. The company became reorganized as a division of the Koppers Company in 1936.

IRON MEN AND THEIR DOGS. By Ferdinand C. Latrobe. 1941. 225 pages. Published by Ivan R. Drechsler, Baltimore, Md. Price, \$4.50.

The March of Events

Told to Save Electricity

ALL government officials in Washington and in the field were asked by President Roosevelt on March 6th to conserve electricity for the war effort by using lights only for essential operations. He said he, himself, was saving both work and expense by issuing the request through the press rather than in the form of an executive order.

He told a press conference he also would like to have reports on how much power could be saved by watching electric lights in government buildings throughout the country. Quite a number of complaints have reached him, Mr. Roosevelt asserted, to the effect that government buildings in which there was no night work were lighted up after dark.

"How about civilian saving?" he was asked. The same thing applies, the President replied. But when he was asked about using power for night baseball games—he recently recommended more night games—the President remarked that certain things related to morale ought to continue. If the people attending ball games all turned out their lights at home, he said, the saving would go a long way to offset the power consumed in lighting ball parks.

Sharply Cut Waterways Bill Proposed

REPRESENTATIVE Dondero, Republican of Michigan, on March 4th asked Congress to shelve a billion dollar rivers and harbor authorization bill and approve instead legislation to authorize works to cost \$400,000,000 which he said the War Department had recommended for national defense. Dondero's bill includes the St. Lawrence seaway-hydro-electric development estimated to cost \$280,000,000.

Dondero said all the works in his bill were included in the broader measure introduced by Chairman Mansfield, Democrat of Texas, of the House Rivers and Harbors Committee.

"The bill I have introduced," said Dondero, "reduces the omnibus bill by approximately \$550,000,000. The purpose of introducing my bill is to eliminate any controversial projects in the omnibus bill, some of which have been hereto rejected by Congress. This bill is in harmony with the President's suggestion in his veto message of the rivers and harbors bill of May 21, 1940."



At that time President Roosevelt vetoed a bill because it authorized nondefense projects.

Except for the St. Lawrence development, the \$28,000,000 Clarks Hill Reservoir, Georgia, and the \$34,509,000 East River, New Jersey, channel, more costly projects in the omnibus bill would be eliminated by Dondero's measure.

New Rail Board Proposed

PRESIDENT Roosevelt was said recently to favor a railway labor proposal that he establish a permanent War-time Emergency Fact-finding Board which would take over efforts to settle disputes between the railroads and their 1,200,000 employees if and when conciliation efforts by the National Mediation Board failed.

The plan was put before the President at a White House conference on March 5th by T. C. Cashen, president of the Railway Labor Executives Association and head of the Switchmen's Union of North America, and B. M. Jewell, president of the American Federation of Labor's Railway Employees Department.

Creation of a single "super" board of three members to handle all war-time railway labor disputes, sponsors of the plan say, would lend a degree of stability to labor relations in this industry and bring them into conformity with the administration's plan for handling all other labor disputes through the National War Labor Board. In the past the President has appointed separate fact-finding boards for each important dispute which threatened to tie up essential transportation services.

Submission of a dispute to an emergency presidential board serves automatically to prevent strike or lockout action for sixty days, since the Railway Labor Act forbids either party to invoke his economic weapons during the 30-day period in which the board is investigating the case and for thirty days after the report has been made public.

The theory behind the waiting-period provision is that public opinion would force the dissatisfied party to abide by the recommendations of the emergency board, although acceptance is not required.

Power Line Approval Assailed

THE House Military Affairs Committee, in a formal report on March 5th, charged that approval by the War Production Board

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of the construction of electric transmission lines in Arkansas, Louisiana, and Texas constituted "a reckless disregard for the conservation of critical war materials." The WPB had OK'd a proposal advanced by the Rural Electrification Administration.

The report, based on a subcommittee investigation of the national defense program, dealt solely with charges made in the House that the REA was wasting power capacity, vital copper, and violating conservation orders of the SPAB and its successor, the WPB.

Severely criticizing REA "duplication" of existing transmission lines, the report described the activities of OPM General Counsel John Lord O'Brien and J. A. Krug, head of the WPB Power Branch, as tantamount to "sabotage of the effort to prevent waste of critical materials."

Krug, who appeared as a witness before the investigation, was charged with five misstatements of fact in his testimony, including an estimate that the Arkansas-Louisiana project would use only 250,000 pounds of copper, whereas the application for priorities asked for 3,358,400 pounds.

The report stated that the Arkansas-Louisiana project and a proposed transmission line in Texas would have been rejected by local power authorities, but REA contended the lines were necessary to transmit power to defense installations.

Of the Texas project, the report declared, "in brief, it is proposed by the Rural Electrification Administration to build transmission lines now, from a generating plant that does not exist, to customers that are now being served."

The committee split, 17 to 8, on the report, which was drawn up by a subcommittee headed by Representative Faddis of Pennsylvania, but most of the dissent arose from the fact that neither REA officials nor Donald M. Nelson, the War Production Board's chairman, had been called to offer answers to the charges against them.

The majority said that Mr. Krug had shown a "tendency to state only part of the facts," and charged that this was "calculated to mislead the committee and hinder its effort to ascertain the facts." It said that he had assumed "indifference and superiority" in connection with the matter under investigation.

The principal minority report, signed by seven committee members, did not defend Mr. Krug, but declared its belief that "had more extensive hearings been held permitting Mr. Nelson and other interested parties to appear before the committee, much of the criticism that is contained in the committee report might have been obviated."

When the majority report was put before the House, Representative Winter of Kansas asserted that the subcommittee's record showed an "attitude and a philosophy toward the war by a shockingly widespread group of key power officials in the Federal government

which would indicate that Communist or planned state ideology is paramount in their minds to the necessity of winning the war."

Representative Rankin of Mississippi defended the REA and urged members to read the minority reports.

Three REA Aides Punished

ROBERT B. Craig, deputy administrator of the Rural Electrification Administration, was recently reprimanded by Secretary of Agriculture Wickard, another REA official disciplined, and a third removed for their part in the submission of inaccurate personnel information to a congressional committee.

This was disclosed early this month when the Appropriations Committee, in reporting the big agricultural appropriation bill to the House, made public the record of hearings held before its subcommittee.

Representative Dirksen, Republican of Illinois, a member of the subcommittee, read excerpts from a letter to Subcommittee Chairman Tarver in which Secretary Wickard reported he had sent a "severe letter of reprimand and warning" to Mr. Craig, had ordered suspended for thirty days and assigned to other duties W. Lyle Sturtevant, budget officer, and had brought removal charges against Kendall Foss, REA information chief.

In a subsequent letter, Mr. Wickard reported he had ordered Mr. Foss removed, effective January 30th last. Mr. Dirksen said Mr. Foss is now working in another government agency, the Economic Warfare Board.

Power for Plants

THE War Production Board acted late last month to assure sufficient supplies of power to war industries in the Buffalo, Niagara Falls, and western New York industrial areas in event of breakdowns or power shortages developing from other causes. In a limitation order affecting industrial users of power in the section mentioned, the government agency issued an order which can be invoked whenever occasion arises.

The curtailments provided do not affect household consumers. Specifically, the order provided: Mandatory integration of power systems to develop maximum use of power resources when needed to relieve shortages in the Niagara Falls frontier area.

Mandatory operation of generating equipment owned by industrial consumers to relieve the power shortage.

Mandatory reduction up to 50 per cent in the power demands of large power consumers (with demands over 200 kilowatts) who are not engaged in war production or essential civilian services. This reduction is made during periods of power shortage only when the availability of power supply is insufficient to meet the demand after the steps mentioned above have first been taken.

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Mandatory reduction on a pro rata basis in the power demands of large industrial users at Niagara Falls. This step is taken only after the first three above steps.

Mandatory restrictions upon the connection of new large industrial consumers with demands exceeding 100 kilowatts and upon expansion of loads of existing consumers.

The order was necessary because under certain combinations of lake level, air temperature, wind, steam condition, and ice, the supply of water in the Niagara river is reduced, resulting in a substantial, though temporary, reduction in the generation of electric power.

The order also was designed to take care of emergency breakdowns.

The order affected the operations principally of the Niagara Falls Power Company, Buffalo Niagara Electric Corporation, Niagara, Lockport & Ontario Power Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Company, it was said.

However, all other electric utilities that are interconnected with these may be called upon to make power available. These include those operating in New York, New England, Pennsylvania, and New Jersey.

Arkansas

FPC Order Upheld

THE United States Circuit Court of Appeals on March 3rd upheld the Federal Power Commission's order terminating the license of the Arkansas Power & Light Company for construction of the proposed \$6,100,000 Blakely dam on the Ouachita river near Hot Springs, Arkansas.

In arguments before the court last December, counsel for the commission contended that the company was merely seeking to establish "squatter's rights," and that the company was "playing the part of a dog in the manger, not wanting to complete the project itself and seeking to prevent others from doing so."

Much of the power supplied to the company's customers, the commission contended, was obtained from the Tennessee Valley Authority because it was more profitable for the company to supply TVA power than to construct the Blakely dam. The company contended the commission's action was arbitrary and unreasonable, and said in evidence of its good faith that it had spent \$1,600,000 on the project.

The commission's termination order was issued effective last September 1st following a series of extensions of the time clause in the original license. The license was first issued in 1923. Federal law requires work on such projects to be begun within two years after issuance of the license.

Wants AVA Flood Agency

MEMBERS of the state Flood Control Commission said recently they would endorse the Arkansas Valley Authority bill pending in Congress if its authors would amend it to stress flood control instead of generation of power.

They also recommended that United States engineers serve in an advisory capacity to the authority. The measure, sponsored by Congressman Clyde T. Ellis of Bentonville, would

create a government-financed agency similar to the Tennessee Valley Authority.

Secretary W. C. McClure said the commission had adopted a resolution calling on the Federal government to construct Blakely dam on the Ouachita river near Hot Springs.

Allowed to Sell Properties

THE state utilities commission on March 3rd authorized the West Memphis Power & Water Company to sell its electric generating plants and distribution system in and adjacent to Hampton, Harrell, and Banks to the Ouachita Rural Electric Cooperative Corporation.

Sale of the properties was authorized after the town of Hampton withdrew its intervention in the case and asked that the sale be approved. No protests were received from Harrell or Banks.

The commission authorized the Ouachita Rural Electric Cooperative Corporation to extend its facilities to serve customers in the three towns and in the areas of Calhoun county and the west half of Bradley county in which the West Memphis utility formerly was authorized to operate.

Higher Gas Rate Appealed

THE Arkansas Smelting Company appealed to the Pulaski Circuit Court on March 6th an order of the state utilities commission authorizing the Twin City Pipe Line Company of Fort Smith to increase its gas rate to the company's Van Buren smelter approximately 20 per cent.

The smelting company alleged the higher rate authorized by the commission was "unjust, unwarranted, and discriminatory" in that it required the smelting company to pay a higher rate for natural gas "than any other industrial consumer using a comparable amount of gas."

The order of the commission of December 31, 1941, authorized the Twin City Pipe Line

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Company to increase its rate to the smelting company from an average rate of 10.2 cents per thousand cubic feet to an average of not less than 12 cents, the petition said. Under the order the company was authorized to

charge 15 cents per thousand cubic feet for the first 3,000 cubic feet consumed, 13 cents for the next 27,000 cubic feet, 12 cents for the next 30,000 cubic feet, and 11 cents for all gas consumed above 60,000 cubic feet.

California

Bus Trend Halted

IN a sweeping reversal of policy to meet war-time restrictions, the state railroad commission recently announced that until the full effect of rubber rationing is determined, no abandonment of rail passenger operations in favor of bus transportation will be permitted.

The change of policy, which affects chiefly municipalities like Los Angeles and its surrounding areas, was made to conserve rubber stocks. "Until the full effect of the tire shortage is determined," the commission's proclamation read, "no bus operations will be authorized in lieu of rail transportation."

Among petitions for just such changes in this area and now due for denial was one filed by the Los Angeles Railway Corporation for permission to abandon some of its rail trajectories on the "W" line in favor of bus service.

Applications of the Pacific Electric Railway Company for abandonment of three bus lines in the San Fernando Valley were denied on March 3rd by the Los Angeles Board of Public Utilities and Transportation. The action was taken on the ground that no substitute operator of responsibility had offered to take up the service and the board denied the application of P. C. Cross to establish a substitute bus line on the ground he had not shown financial ability.

Rationing Trolley Rides Next

RATIONED rides on street cars and wholesale swapping of jobs by defense workers may be just around the corner as Los Angeles

struggles to cope with the worst transportation problem in America.

While spokesmen for the Pacific Electric Railway on March 2nd petitioned the state railroad commission for an emergency order permitting it to up fares on trolleys and busses to meet "increased costs of labor and materials," Mayor Bowron suggested two policies to the city defense council. They were:

1. Staggering of working hours of mass employment crews, including public departments, to make available traction equipment carrying maximum pay loads.

2. Wholesale swapping of jobs by aircraft and other defense workers to reduce the average distance between work and homes.

Frank Karr, counsel for Pacific Electric, told the commission that if the tire situation makes it imperative for the company to abandon less important bus lines, it might result in a rationing-of-rides program to insure that defense and other vital workers may continue to report at their jobs.

Karr added that in his opinion passengers using the traction company facilities would not object to paying increased fares if such increases were necessary to maintain adequate service. He warned that if the company is denied permission to increase rates it might find it absolutely necessary to make ends meet by curtailment of service.

Pacific Electric also has pending a petition for permanent increases. It has asked for increases from 5 cents to 6 and 7 cents in local fares. For interurban fares, increases averaging 10 per cent are sought. In addition, the company seeks permission to discontinue the sale of \$1.50 weekly passes.

Georgia

Utility Investment Ruling Asked

WALTER McDonald, chairman of the state public service commission, recently requested a conference with officials of the Georgia Power Company on plans for protecting the large investments of the utility companies that are required to install costly equipment for defense industries that will not be permanent after the war.

"Some special rulings are obviously necessary to protect the large investments of the various utilities that must be made to serve

the temporary loads," McDonald wrote President P. S. Arkwright, "and I would like to consider the solutions of this problem of investment that have been tried elsewhere, and those of which you have undoubtedly given such thought."

At the same time McDonald said he wanted to take up the question of how much excess electrical power had been made available by interconnections with other systems, as well as the company's construction program and the emergency problems confronting the utility industry.

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Kentucky

Told to Notify TVA

MAYORS of six Kentucky cities were recently notified that acquisition of Kentucky-Tennessee Light & Power Company facilities without consultation with the Tennessee Valley Authority might prevent the Federal agency from serving them. W. L. Sturdevant, director of information for the agency, announced Gordon R. Clapp, TVA general manager, had telegraphed the mayors that "We feel it our responsibility to make clear to municipal officials and the public that we are not participating in these negotiations, that we have received no official notice of them, and that acquisition of these facilities without consultation with TVA to coordinate TVA plans . . . may make it impossible for TVA for the indefinite future to serve this area."

The telegram was sent mayors of Bowling Green, Mayfield, Murray, Hopkinsville, Guthrie, and Scottsville.

Clapp also stated that Kentucky newspapers had reported that Associated Gas & Electric Company, parent concern of the Kentucky-Tennessee, had designated certain bond houses to represent them in the possible sale of power facilities, "and are attempting to persuade municipal officers that cities should, immediately and without popular referendum, buy these properties . . . on the basis of a negotiated price."

"Some press reports have referred to this as a step toward TVA power. This is not the fact. TVA has no interest in this transaction if officials and the people of the area understand that it is not a move in the interests of securing TVA power and if they approve acquisition of properties . . . on that basis."

Michigan

To Build City Utilities

THE largest expansion of Detroit's municipally owned public utilities ever undertaken in one year will be financed by the Federal government as a part of its program for 45,000 defense homes in Detroit.

A program of water supply expansion to cost at least \$7,000,000 will be necessary in addition to fire, school, sewer, and other developments.

Laurence G. Lenhardt, general manager of

the Detroit Department of Water Supply, recently was given assurance that the government would put up the entire cost of the water extensions after conferences with officials of the Army and Navy, the National Resources Planning Board, and the Works Progress Administration.

The problem of furnishing light and gas to the defense homes, problems of the Detroit Edison Company and the Michigan Consolidated Gas Company, had not been taken up by the government.

Missouri

Utilities Balk on Taxes

THE St. Louis County Gas Company has refused to pay 35 per cent of a \$60,203 school tax bill for 1940 in seven school districts in the county, and six other public utilities and railroads have refused to pay 43 per cent of a \$37,942 tax bill for the same year, to be distributed among all the county school districts, it was shown in a recent check of the tax books.

The gas company and the other utilities and railroads based their refusal to pay on the ground that that part of the school tax levied for building-fund purposes is not being so used but is being diverted for general school expenditures. The contested taxes total \$37,778. The gas company has offered to pay \$38,924 of its bill, but Collector Willis W. Benson has refused to take a part payment. He has likewise refused the offer of six other utilities and railroads to pay \$21,443 of their bill.

Nebraska

State Questions Sale

LEGAL right of the Consumers Public Power District to purchase the Western Public

Service Company assets situated within the city of Scottsbluff will be challenged in the state supreme court by Attorney General Johnson in a *quo warranto* action. Action was

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taken at the request of the people of that city, filed with Governor Griswold, who suggested the action to the attorney general.

The action is based on the fact that at the 1939 legislative session an amendment was passed to the enabling act under which Consumers operates. This amendment prohibits purchase by a power district where any city or village, for a year previous to the passage of the amendment, has been purchasing current from any generating plant of the United States. Exception is made only where the amount of current supplied to a municipality is produced in the government plant and used by the municipality.

The issues to be presented to the court are whether the 90-day notice to municipalities before a sale could be concluded applies to the transaction in the form in which it was made, that of a stock rather than property purchase; and whether the 15 per cent clause applies, the dispute being over how this percentage shall be computed.

Court Asked to Uphold Right

ATTORNEYS for the Loup River Public Power project asked the state supreme court on March 6th to overturn the finding of District Judge Chappell that it was not entitled to relief sought in an injunctive action against the North and Middle Loup Public Power districts because it had an adequate remedy at law and because the court had no jurisdiction over the subject matter.

Twenty-nine reasons were listed why the relief should not be granted. In 1934 Loup River was granted an appropriation of waters of the Loup river, not to be exercised until after North Loup had used 38,000 acre feet and Middle Loup 45,000 feet. On the basis of that grant \$12,000,000 was invested in generating plants. It was charged that the two irrigation districts have been taking more than they were entitled to and that the state officers not only permitted but aided them to do so.

Asks Electric Rate Opinion

SECRETARY Viren of the state railway commission was directed by that body recently to obtain an opinion from the state attorney general as to whether that tribunal has jurisdiction over electric rates in towns and villages and rural areas served by private, public, and Consumers power districts.

In S. F. 310, enabling act under which the Consumers District was organized, the commission is stripped of all jurisdiction as to rates and service in any of the municipalities served, whereas the general law under which the commission has operated in the past and under which it did, upon complaint, test the reasonableness of rates charged villages and farm patrons, gives it authority over all incorporated towns and rural areas.

The commission recently received requests for action from several villages interested in lower rates.

New York

Waterway Condemned

CONDEMNATION of the proposed St. Lawrence waterway and power project was voted by New York Chamber of Commerce despite opposition which branded the action as a "distinct service to Hitler and a tragic disservice to the United States of America." By a resolution, the chamber endorsed a proposal introduced in the legislature by Assemblyman Frank J. Caffery, Democrat, Buffalo, to ask Congress to reject the project.

Maurice P. Davidson, a trustee of the New York State Power Authority, led opposition to the resolution, asserting the development was urgently needed for production of aluminum. Without it, he said, the enemy would benefit.

Borden Spaulding, chairman of the chamber's executive committee, declared the project was "economically unsound" and that power might be obtained quicker and more cheaply from other sources.

State Commission Report

THE state public service commission reported to Governor Lehman and the state

legislature on March 2nd in its statement of its activities in 1941 that fifty-one municipally owned electric plants in the state were in sound financial and operating condition.

Recently the commission completed the examination of property and accounts of twenty-three municipal plants for which determinations have been made. This revealed that these utilities up to March 31, 1936, had accumulated total net earnings of \$3,650,419 after deducting all expenses, and have turned over \$1,830,458 to the operating municipalities and have surpluses amounting to \$1,819,961.

In addition, rates have been reduced, with savings to customers of more than \$1,390,000.

Refunds as high as 20 per cent have been made to customers in recent years, according to the report. The commission, however, is opposed to this method of distribution of excess earnings.

It emphasized that rate reductions should be made if the earnings are excessive for any substantial period.

The commission also reported progress in the year in valuation work on privately owned public utilities, involving determination of original cost and establishment of continuing

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records of property amounting to several billions of dollars.

Work has been completed on several utilities in the metropolitan district, including the Brooklyn Union Gas Company, the Brooklyn Borough Gas Company, the New York & Richmond Gas Company, and the New Rochelle Water Company, with important adjustments in values.

The report revealed that in 1941 reductions in electric rates saved consumers in the state \$166,000. It added that total reductions for the period in electric, gas, telephone, water, and steam services amounted to \$2,235,500. In the 10-year period, 1931-1941, reductions in annual utility revenues totaled \$68,819,000.

All electric power stations in New York city and Westchester county are now interconnected and ready for any war emergency, according to the report. The only utilities not connected with other systems in the city, the report disclosed, are the Long Island Lighting Company and the Staten Island Edison Company.

The commission was said to be working out interconnection of gas plants in Brooklyn, Queens, and the Bronx. Engineering surveys have been made and the interconnection project almost finished. When the job is done, the commission declared, "what is probably the greatest gas supply in the world" will be available for war emergency use.

Rate Increase Authorized

THE state public service commission on March 7th decided to permit the Central New York Power Corporation to increase rates about \$350,000 annually on condition that the company repay consumers if the rise is found unjustified.

The action was recommended by Commissioner Neal Brewster, who is investigating the company's proposal to increase gas rates in Syracuse and adjacent communities by about \$466,000 a year.

Fare Increase Looming

THE threat of an increased rapid transit fare came close on March 5th when Budget Director Kenneth Dayton reported that city departments and agencies had asked for a total of \$620,580,000 for next year, an increase of \$46,840,000 over the 1941-42 budget of \$573,740,594.

Although Mr. Dayton made no reference in his report to recent proposals to increase the transit fare to 10 cents, with two rides for 15 cents, the \$46,000,000 increase he mentioned dovetails almost exactly into the \$45,000,000 in increased revenue that is expected if the transit fare rises.

Paul Windels, former corporation counsel under Mayor LaGuardia, suggested the increased fare on January 11th in his capacity as chairman of the Committee of Fifteen. The

committee made its recommendation with specific reference to the city budget, which goes into operation July 1st of this year, and offered the higher fare as an aid to balancing that budget.

Utility Tax Law Change Banned

ARTHUR C. Bang, chairman of the public utilities committee of the Real Estate Board of New York, announced on March 6th the receipt of advice from Albany that the appellate division of the supreme court, third department, had, by a 4-to-1 decision, invalidated the amendment to the state utility tax law passed at the last session of the state legislature levying a tax on submetering by building owners, which had been made retroactive for four years.

The decision of the appellate division was rendered in the matter of the Lacidea Realty Corporation against the state tax commission, a test case sponsored by the public utilities committee of the board, which challenged the constitutionality of the act on several grounds.

Blackout Orders Issued

BLACKOUT orders affecting all forms of exterior illumination in New York city were issued on March 6th by Patrick Quilty, commissioner of Water Supply, Gas and Electricity, who also took steps to control lights inside buildings so that they cannot be seen from the street.

At the same time Mayor LaGuardia disclosed that he would inspect 300 air-raid units on the East River drive between Eighteenth and Thirty-fourth streets. The mobilization of these crews is intended to give New Yorkers a first-hand view of services organized in the fields of gas decontamination, demolition, road and sewer repair, and repair of public utilities. Composed of city employees and specially trained workmen of the major utility companies, the units are manned by about 5,000 men.

Mr. Quilty's regulations on illuminated signs and lights in buildings followed the mayor's announcement on March 1st that all outdoor signs not wired for immediate blackout must be extinguished at night.

The rules cover "all exterior illumination, such as illuminated signs, exterior surfaces of structures, ground areas, devices, billboards, private ornamental lighting, and insignias." All lights inside and outside buildings that are visible from the street must be extinguished at the close of each business day, unless some person remains on duty with responsibility for turning off the lights. Time clocks, switches, and apparatus intended to be operated by air-raid wardens are not considered adequate by city officials.

A bill exempting New York city from liability for accidents or injuries suffered by passengers on the city's subway lines during a

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blackout or other emergency periods was introduced in the state legislature on March 5th by Senator Coudert and Assemblyman Mitchell, Manhattan Republicans.

The measure, carrying the approval of Mayor LaGuardia, is modeled after the practice in England since the start of the war.

It had been already announced that railroads, busses, and other transportation agencies would continue to operate except during

periods of direct attack. Under blackouts and other emergency situations, sudden stops and possible collisions might occur, and the sponsors of the legislation believe that such risks arising out of these possible mishaps should be assumed by passengers instead of the operators of transportation lines. In addition to the New York city bill, they also introduced a statewide measure carrying out the same purpose.

Ohio

Coöperatives Get Loan

EIGHT northern Ohio rural power coöperatives will receive \$3,036,000 from the Federal government to purchase distribution lines serving 7,000 customers and to build additional lines after the war.

The Rural Electrification Administration announced it was lending \$1,100,000,000 to buy the distribution facilities of three private concerns and \$1,924,000 for 1,280 miles of new lines to supply 3,000 families now without power. These lines would be erected in the post-war period when critical materials again become available.

Lines will be purchased from the General Utilities Company, Western Reserve Power & Light Company, and the New London Power Company, now serving consumers in Allen, Ashland, Hancock, Henry, Huron, Lorain, Medina, Putnam, Seneca, Van Wert, Wayne, and Wood counties.

The coöperatives receiving the loans were: Holmes Rural Electric Coöperatives, Inc., Millersburg, \$269,000; Midwest Electric, Inc., St. Marys, \$329,000; Paulding-Putnam Elec-

tric Coöperative, Inc., Paulding, \$538,000; Lorain-Medina Rural Electric Coöperative, Inc., Wellington, \$671,000; North-Central Electric Coöperative, Inc., Attica, \$96,000; Tri-County Rural Electric Coöperative, Inc., Napoleon, \$261,000; Firelands Electric Coöperative, Inc., North Fairfield, \$308,000; and Hancock-Wood Electric Coöperative, Inc., North Baltimore, \$564,000.

To Issue Railway Bonds

CCLIMAXING a 6-year traction war, advocates of municipal ownership of the Cleveland street railway system triumphed as the city council recently approved legislation calling for a bond issue to provide funds for purchase of the Cleveland Railway Company.

Legislation passed by the council authorizes issuance of \$17,500,000 mortgage revenue bonds with which stock of the railway company will be purchased by the city at \$45 a share.

Stockholders of the company had previously registered their approval of the sale to the city at a special meeting last November

Pennsylvania

Natural Gas Rates Cut

THE Peoples Natural Gas Company, of Pittsburgh, on March 5th was directed by the state public utility commission to cut rates to 150,000 customers in 13 western counties and to pay reparations totaling more than \$3,500,000 on 1940 and 1941 bills. The commission's order becomes final in thirty days unless the company files exceptions.

The reparations, totaling \$1,900,000 for 1940 and approximately the same amount for last year, are to be paid in ninety days.

The order culminated a rate inquiry which started in 1937. At the height of that investigation the company increased its rates July 1, 1940.

"Rates are prescribed for the future which will be materially below the current rates to small users, and probably below the rates

which were in effect until July 1, 1940," the commission said of its order. The new rates and reductions were not immediately announced.

The order found that the original rates were "not unreasonable for 1939 and prior years," but added they had "become so by reason of increased sales experienced by the company in later years, particularly to industries and to the New York Natural Gas Corporation, an affiliated interest."

The company serves consumers in Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Clarion, Fayette, Greene, Indiana, Lawrence, Washington, and Westmoreland counties.

Edward M. Borger, president of the company, announced an appeal would be taken generally on grounds that the commission's decision was contrary to the weight of evidence.

THE MARCH OF EVENTS

Texas

Asked to Pool Facilities

JOHN W. Carpenter, president of the Texas Power & Light Company, on March 6th asked officials of privately owned and municipal power plants in Texas to meet in Dallas the following week to consider pooling all their generating facilities for the duration to further the war effort.

"The program would be of great value to municipal plants should their facilities be destroyed or damaged by enemy air raids or from work of saboteurs," said Carpenter, who added that many of the power officials already had expressed themselves as favoring the plan.

He said it also was contemplated that equipment and even personnel would be quickly

transferred to meet promptly any war-time emergencies which might arise. Carpenter said the pool would allow power to be fed from one system to the other as the need arose and added that "electric power must work overtime to turn the new wheels of industry."

Gas Rates Reduced

REDUCTION in gas rates for Austin announced early this month by the Texas Public Service Company will save the city and residents approximately \$49,000 annually. The reduction was 14 cents for the first thousand feet used in homes.

The city government's gas rate was reduced from 14½ cents per thousand cubic feet to 12½ cents.

Utah

Lack of Power Denied

No plant or industry has been unable to locate in the intermountain area or northern Utah for the sole or controlling reason of inadequacy of power supply, George M. Gadsby, president and general manager of the Utah Power & Light Company, told Salt Lake Real Estate Board members at a recent meeting.

Mr. Gadsby said the projected aluminum rolling mill was naturally and properly located adjacent to a supply of aluminum ingots in

the Pacific Northwest, although there was adequate power for such a rolling mill in northern Utah. The ingots, he pointed out, could be produced economically only where there is a huge supply of electric power such as that made available by Bonneville dam.

He said that only in the event of some large electrochemical development such as the recovery of magnesium from deposits whose extent is yet to be proven, is there now any apparent necessity for a large Federal development with a tax-free output.

Washington

Appeal Denied in PUD Case

THE United States Supreme Court on March 2nd denied the petition of the Puget Sound Power & Light Company for review of lower court decisions approving the condemnation of certain utility property by Whatcom County Public Utility District No. 1 at a price of \$5,000,000.

The utility district seeks electric properties in Whatcom county and two transmission lines

running south into Skagit county, it was said.

The Puget Sound Company contended the condemnation was unnecessary because the Whatcom district could build a competing system quickly and economically. The real purpose of the condemnation, it was charged, was to set up a district-owned power monopoly in that area. The utility also objected to certain court rulings in the trial for determination of the cost of the property. The ninth circuit court of appeals overruled these contentions.

Wisconsin

Pipe Line Sought

THE Federal Power Commission on March 5th announced it had received an application from Independent Natural Gas Company, a wholly owned subsidiary of Phillips Pe-

troleum Company, seeking authority to build an 877-mile, 22-inch natural gas pipe line from Ray, Texas, to Milwaukee, Wisconsin.

The company proposes to sell gas at wholesale to ten public utilities operating in southern and eastern Wisconsin for public resale.



The Latest Utility Rulings

Bond Premium Payments Not Required of Company Ordered to Dissolve

A HOLDING company which has been ordered to dissolve and dispose of its property pursuant to § 11 of the Holding Company Act is not, according to a ruling of the Securities and Exchange Commission, required to pay a premium to holders of outstanding debentures in addition to par value and accrued interest. The controversy over this question, presented in the United Light and Power Company Case, was termed by the commission one of first impression under the Holding Company Act.

The debenture agreements under which the bonds had been issued contemplated several possibilities: First, that the debentures might remain outstanding until their maturity as obligations of the issuing company; second, that they might be assumed by and remain outstanding until maturity as the obligations of a successor corporation; third, that the obligor, for the benefit of itself or its stockholders, might voluntarily redeem the debentures prior to maturity, in which event the premium would be required; and, fourth, that in the event of a default the trustee might accelerate maturity, in which event no premium would be payable. The commission said:

It may be conceded that in drafting these indentures, almost twenty years ago, the parties could not have had in mind the type of situation that has now arisen under a statute enacted in 1935. Considering the structure of the agreements we believe that the redemption provision should not be deemed applicable to the situation which has now arisen. We believe that the obligation to pay a premium was intended to arise only when the company was to continue as a going concern, for the payment thereof is in the nature of compensation payable by the company (i. e., its stockholders) to the debenture holders for depriving the latter of their investment. In a going concern, the stockholders may be deemed to

benefit from the elimination or reduction of the debt effected by the redemption, and the premium may be regarded as the prearranged amount payable by them for such benefit.

But here the company does not continue as a going concern. There is no question of free choice or election. The company, by virtue of congressional mandate, is to terminate its existence. Power must liquidate not only its debt but also its stock. The rights of debenture holders and stockholders alike, to retain their respective investments, are cut off. Such holders must, of course, be compensated out of the estate to the full extent of their lawful claims. It is the extent of the debenture holders' lawful claim that is presented for determination here.

The commission considered the circumstances similar to those in a liquidation or reorganization proceeding in bankruptcy or in equity, where all claims mature and are dealt with in the proceedings and the amount of the claim is regarded as based on its face amount plus accrued interest, without regard to redemption premium.

A contention that the company could have had the debentures assumed by a successor corporation, as provided in the agreement, as part of a plan of liquidation and dissolution, was rejected. Obstacles existed because of outstanding securities of the immediate subsidiary, and, moreover, if assumption by some other company were permissible under § 7 of the act, said the commission, it would run counter to the standards of § 11(b)(2) requiring that a corporate structure be not unduly or unnecessarily complicated.

The rule of absolute priority was said not to be relevant since that rule does not create rights but merely requires that rights and priorities of senior claimants must be recognized in a plan of reor-

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organization. The debenture holders had not established such a right.

A suggestion was made that if redemption provisions were inapplicable, some compensation must still be given for termination of the investment, but

the commission said that this termination applied to debenture holders and stockholders alike as the result of a congressional mandate. *Re United Light & Power Co. et al.* (File Nos. 54-25, 59-11, 59-17, Release No. 3345).



Rural Electric Corporation Held to Be a Public Utility

THE supreme court of Wyoming held that an electric corporation not organized for gain, having no capital stock, and furnishing electricity to members only, but serving a substantial portion of the public, was a public utility within the meaning of statutes defining public utility, so as to make a tax imposed upon public utilities applicable to it.

The court discussed various tests of public utility status, giving recognition to the opinions of commissions and legislatures with respect to organizations of this sort. Such opinions while not controlling on the court, it was said, would at least cause the court to hesitate to announce a contrary rule.

Intention to dedicate to the public use, said the court, is governed by the facts. It does not depend solely upon the wishes and declarations of the owner. Supplying electricity, it was said, has long been and now is universally recognized as a service in which the public may be inter-

ested and which accordingly may be impressed with a public character, in the absence of countervailing circumstances. The court continued:

The fact of dedication to the public, as well as the right to demand service on the part of the public generally, may be shown by explicit profession, or indirectly by indiscriminate service or solicitation, by the exercise of the right of eminent domain, by the voluntary submission to regulation, and by perhaps other facts, although some of these facts may not be controlling.

Among factors considered in reaching the conclusion that this organization was a public utility were the possession of a monopoly in the territory, contact and ability to compete, possession of the power of eminent domain, and use of highways for electric wires. It was said that while none of these facts was controlling, they were to be taken into consideration. *Rural Electric Co. v. State Board of Equalization et al.* 120 P(2d) 741.



Repurchase of Securities Permitted under Limited Authorization

A DECLARATION under § 12(c) of the Holding Company Act regarding the proposed expenditure of \$5,000,000 by a holding company in market purchases of its own preferred stock was permitted by the SEC to become effective only to the extent of \$2,000,000. Jurisdiction was reserved as to the remainder, pending efforts by the company to formulate a more comprehensive plan for distribution or exchange of assets.

A previous declaration for the same purpose had been approved, but the com-

mission had viewed this as merely a "stop-gap" program. The commission did not favor a continuous program of retirement of preferred stock by this method. It believed that the company should take steps to work out a program conforming with the requirements of § 11. The commission said in part:

In this connection, it is to be noted that the company now has on hand cash and cash items in the amount of approximately \$25,000,000. It also has substantial amounts of

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marketable portfolio securities which might be converted into cash and thus provide additional funds for continuation of a stock-purchase program. Under these circumstances it is plain that if we were to permit the company to continue along the lines it suggests, we might well find ourselves faced with a long-term, piecemeal use of assets to retire large amounts of preferred stock at prices which, in part because of the protracted retirement method employed by the company, would probably continue at depressed levels.

The significance of these considerations must be appraised in the light of the fact that the principal officers of the company have avowed their belief that conformance with the requirements of the Public Utility

Holding Company Act will necessitate "that either Electric Bond and Share Company will be liquidated or will be severely contracted." Just when such liquidation or severe contraction will be effected, these officers were unable to say; but they did assert that it is the intention of the management "to try as rapidly as possible, consistent with the interests of the stockholders, to conform the Electric Bond and Share Company to the Public Utility Holding Company Act, even if that means the ultimate liquidation of Electric Bond and Share Company."

Re Electric Bond & Share Co. (File No. 70-475, Release No. 3339).



Claimant Denied Leave to Intervene in Simplification Proceeding

THE Securities and Exchange Commission denied leave to intervene in proceedings under § 11 of the Holding Company Act for simplification of two companies where the person seeking to intervene asserted a claim arising out of the purchase of stock from a predecessor company. Substantially all of the assets of that company had been transferred to one of the companies in this proceeding pursuant to a voluntary plan of reorganization under § 77B of the Bankruptcy Act. The commission said:

A suit in the supreme court of the state of New York, seeking to establish this claim as a cause of action against Consolidated Electric & Gas Company and others, resulted in a decision in favor of the defendants, which decision was affirmed by

both the appellate division and the court of appeals of the state of New York. A bill in equity in the court of chancery of Delaware was dismissed on the grounds that the matter was *res judicata*. A third suit in New York has resulted in an adverse decision although the right of appeal in this action is still available. We express no opinion with regard to the merits of Fryberger's claim; it is sufficient to state that this claim has not been established in a court of competent jurisdiction and that Fryberger has not established his status as a creditor of either of the respondent companies.

Furthermore, it does not appear that these proceedings will in any way prejudice any rights of action that Fryberger may have against either of the respondents herein.

Re Consolidated Electric & Gas Co. et al. (File Nos. 54-40, 59-40, Release No. 3341).



Gas Company Must Furnish Regulator

A COMPLAINT against a charge by a natural gas company for the installation of regulating equipment on one of its pipe lines was sustained by the Pennsylvania commission. The utility was furnishing service in charter territory, from one of its pipe lines, to complainant through a privately owned service line on which a regulator was located to reduce the pressure to that permissible for service as required under state

public utility commission regulations.

The right to operate in the territory, said the commission, covers a privilege and also imposes an obligation upon the company to render proper service in compliance with law and regulations adopted by the commission. Although the company had no rule on file with the commission covering any cost to the consumer for installation of regulating equipment, the commission said that even

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though it had a published rule covering such cost it would not be binding upon the commission since it appeared to be in violation of a commission regulation adopted in 1914, and, likewise, even though it had been and still was the practice of the company to require the consumer to bear the expense of installing a regulator. The commission continued:

Such practice, when in violation of an established principle by the commission, cannot be construed as controlling and thus nullify the principle established by the commission in Circular No. 9A, no more so than was the established practice supported by published rules of many utilities in the past that required the installation of service lines from the main to the curb and likewise

that meters be installed at the consumer's expense. Those rules and practices were outlawed by commission decisions and supported by the appellate courts.

The commission said further that to assume that its regulation was to apply only to distribution systems would be reading into that stipulation a condition that gave preference to a consumer residing along a low-pressure line although both consumers are served at the same rate. Gas pressure, it was said, is not the controlling factor to determine whether a consumer should be supplied from a certain pipe line. *Parrett et al. v. United Natural Gas Co. (Complaint Docket No. 13612).*



War Needs Govern Train Service

THE New Jersey board, in authorizing the discontinuance of passenger train equipment, said:

The test of necessity at the present time is not the same test that we previously applied to similar applications. That test rested almost solely upon the requirements of necessity and convenience of the public. This

must now be expanded to include a consideration of the extent to which national defense will be aided by train eliminations so that equipment can be used for the transportation of troops and the way cleared for freight shipments urgently required in government work.

Re Pennsylvania Railroad Co.



Reorganization Plan Approved As Amended

THE Pennsylvania commission has finally approved the revised plan of reorganization for the Pittsburgh Railways Company system after amendments intended to overcome objections to the plan as previously presented. Commissioner Buchanan in a dissenting opinion, however, objected to the capitalization basis, stating that "the law is clear that the new capitalization should be based on reasonably prospective income."

As originally drawn, the revised plan had provided for exclusion of certain lines, with the result that interurban and local street railway service over some lines would be terminated. Continuance of operation is provided for under the amended plan.

Provision was also made by amendment for accounting requirements with

respect to substitution of bus service. The reorganizers cured the defect with respect to a proposed stated value of \$100 a share for the stock by assigning a stated value of \$67 a share, giving a total stated value of \$19,971,092 to the common stock, thus bringing the combined principal amount of general mortgage bonds and stated value of common stock down to \$29,757,192, which is below the \$30,000,000 capitalization figure.

Commissioner Buchanan, in his dissenting opinion, viewed the Pittsburgh Railways Company as insolvent in both the equity and bankruptcy sense. This being true, he said, the doctrine of absolute priority applies. He did not favor a capitalization high enough to give the present stockholders an interest. He said that loss of control by Philadelphia Com-

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pany was no good reason to find higher valuations.

The events at Pearl Harbor, the dissenting commissioner continued, had rendered moot the matter of the substitution of bus transportation for street railway transportation and the matter of

abandonment of any street railway facilities at the time. Rubber restrictions, priorities, and common sense, he said, dictate the abandonment of the private automobile in favor of public transportation. *Re George et al. (Application Docket No. 61009).*



Original Cost Adjustments Approved by New York Commission

THE New York commission has passed upon the methods of accounting and the determination of original cost of property of the Jamaica Water Supply Company after having issued a memorandum in July, 1941, disposing of several items. The company accepted the commission's recommendations, although making new proposals as to so-called overheads charged for the period 1935-1941, inclusive. Commissioner Burritt, commenting upon the company's action, said:

All the adjustments required by the commission and accepted by the company call for charges to surplus of \$737,395, which together with an estimated adjustment to contributions of \$35,550 results in a total charge to surplus of \$772,895. This is in addition to adjustments of \$3,119,464 previously amortized in connection with Case 8989. Of course these amounts never should have been charged to plant accounts since they were improper. Nevertheless, a clear recognition of the facts and of sound principles, foresight, and willingness to deal realistically with such situations are requisite to the decisions made by the company and reported herein. That the management of the Jamaica Water Supply Company has taken these decisions is all to its credit. When it gives effect to its agreement by journal entries it will have set an example for other utilities to follow by clearing its plant accounts of items which do not represent original cost but reflect write-ups. The balance sheet of the Jamaica Water Supply Company as far as its plant accounts are concerned is now entitled to be taken at its face value.

The commission had decided not to require the elimination of all the computed overheads for the period mentioned, providing the company would reduce the total to an amount which would clearly not be excessive and which might be com-

sidered reasonable. Special factors involved in this company's operations were taken into consideration.

Nearly all of the property is within the city of New York, where all utility structures are underground, which increases the amount of engineering and supervision required. Distribution mains and hydrants have had to be planned and replanned in the territory owing to changes of plan and the conflicting authority of various departments of the city and the borough of Queens, in some cases doubling engineering expense and requiring a larger overhead for negotiation. Rapid development has necessitated almost constant negotiations with the Water Power and Control Commission for approval of plans. Overheads charged to plant accounts include the cost of supervisory foremen which may be considered a part of bare cost and is so treated by many companies. Commissioner Burritt said:

The company's past practice in charging overheads to plant accounts resulted in capitalizing a portion of cost elements which presumably would not have been capitalized if time cards had been used because the work involved to account for such costs would probably have cost more than the results warranted, and for other reasons. However, some portion of such cost elements was incurred in connection with plant additions and it was the company's practice to capitalize such costs, although many other companies charge such costs to operating expenses.

Water plant in service might include, under the ruling of the commission and the provisions of the system of accounts, the original cost of units which are partially used and useful in utility opera-

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ions when the portion so used and useful is not separable from that which is not used and useful. Commissioner Burritt said, however, that when a rate question is involved and it is necessary to determine as of some future date the original cost of the used and useful property,

there must be determined what portion of such property is to be considered as used and useful; but until that question arises all such partially used property may be included in the account. *Re Jamaica Water Supply Co. (Case No. 9741).*



Commission Power to Fix Rates on Messages to Foreign Countries Sustained

AN order of the Federal Communications Commission fixing charges for urgent radiotelegraph messages to and from foreign countries was sustained by the Federal District Court for the southern district of New York. RCA Communications, Inc., a common carrier engaged in communication by radiotelegraph between the United States and foreign countries, attacked the order first on the ground that the commission was without jurisdiction in attempting to fix minimum rates for an entire service when a portion of the service is rendered outside the United States by foreign sovereigns or foreign nationals. The court, after quoting from §§ 1, 2(a), and 3(f) of the Communications Act, said:

We think that the commission's order falls directly within the terms of the statute. The plaintiff's contention that the order is directed against foreign countries or their nationals is unfounded. While it indirectly affects them, inasmuch as they share in a joint rate, it operates directly only on persons within the United States and an indirect effect on outsiders does not militate against its validity.

While the order would have the effect of impairing the obligations of the company and other telegraph companies in respect to foreign radiotelegraphic rates established under prior agreements with foreign governments or nationals, it was said that Congress has the power to regulate communication between the United States and foreign points and to regulate the carriers engaged within the United States in such communications regard-

less of whether the effect of the regulation might extend beyond our territory. All such contracts, it was said, are subject to the power of Congress to regulate foreign commerce. The contracts affected, it was said, are not treaties between the United States and foreign governments but essentially private agreements between radiotelegraph companies of the United States and foreign countries or nationals. A contention that the order interfered with the President's prerogative to negotiate treaties was said to be without merit.

A further attack was made on the ground that the commission failed to make findings that the ratio of 2 to 1 with respect to ordinary messages would be unjust and unreasonable, and that such findings were required by the Communications Act as a condition to prescribing a ratio of $1\frac{1}{2}$ to 1 in order to displace the ratio of 2 to 1 established prior to the organization of the commission. The court held, however, that the commission had sole authority to classify communications by wire or radio as "urgent" and to fix reasonable charges. The court rejected a contention that a classification and ratio initiated by the company would be *prima facie* lawful and could not be set aside by the commission without a determination of unreasonableness made after hearing pursuant to § 205(a). It was observed that this section relates only to cases where classification or ratio has already been fixed by the commission and is being attacked. *RCA Communications, Inc. v. United States et al.*



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Other Important Rulings

THE Securities and Exchange Commission granted an application by Philadelphia Electric Company, a subsidiary of The United Gas Improvement Company, for exemption from the provision of § 6(a) of the Holding Company Act of the issue and sale of 48,221 shares of 4.4 per cent preferred stock, cumulative, par value \$100 per share, at \$110 per share and accrued dividends, where the proceeds were to be applied to the retirement of a like amount of outstanding bank notes, the commission finding that this was solely for the purpose of financing the business of the applicant and had been expressly authorized by the Pennsylvania commission. There were no fees or commissions involved and the commission granted exemption from competitive bidding. *Re Philadelphia Electric Co. (File No. 70-503, Release No. 3363).*

The United States Supreme Court held that a certificate for motor carrier operation granted under the "grandfather" clause of the Motor Carrier Act need not restrict operations to specified routes or fixed terminals; that railroads competing with motor carriers are such parties in interest as may contest the granting of a certificate; that a certificate should not be granted where the carrier has failed to serve the area for more than a year since the effective date of the act; and that action of the commission in granting a certificate to one engaged in the transportation of automobiles from factory to dealer to operate in an entire state where only a few points in that state had been served is conclusive upon the court. *Alton Railroad Co. v. United States (Nos. 110, 267).*

Morgan Stanley & Co., Inc., asked the United States Circuit Court of Appeals, Second Circuit, to set aside an order of the SEC to the effect that that firm was, under the old Rule U-12F-2, an affiliate of Dayton Power & Light Company.

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports*.

(This rule has been replaced by another, U-50, which makes competitive bidding for the underwriting of utility securities approved by the commission virtually mandatory.) In the case at bar, Morgan Stanley & Co. had acted as underwriter for the sale of \$25,000,000 of bonds by the Dayton Power & Light Company in 1940, but the SEC had held that the underwriter was not entitled to fees amounting to \$100,562 because of its "subtle" connection with the Dayton Power & Light Company. The court upheld the commission and ruled that Morgan Stanley & Co. was not entitled to the underwriting fees. The court upheld the commission ruling that a special relationship between Morgan Stanley & Co. and Dayton Power & Light Company was such that public interest and the protection of investors and consumers required the underwriter to be considered an affiliate. *Morgan Stanley & Co. Inc. v. SEC.*

The Missouri commission held that it had jurisdiction to authorize the replacement of an existing unsafe and hazardous viaduct with a new bridge, and to apportion the cost between a city and a railway. *Columbia v. Missouri-Kansas-Texas Railroad Co. (Case No. 10114).*

The Pennsylvania commission said that in the case of complaints against a railroad freight rate, the filing of the original complaints on the reparation docket had been consistently held by the commission to stay the statute of limitations. *Re Greco (P. J.) & Sons et al. (Complaint Docket Nos. 13569, 13570).*

The supreme court of Ohio held that an order of the commission overruling a motion of a municipality to dismiss an appeal from a rate ordinance, on the ground that the commission had no jurisdiction to hear the appeal, is not a final order from which an appeal might be taken. *Ashtabula v. Public Utilities Commission, 39 NE(2d) 144.*

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Public Utilities Reports

COMPRISING THE DECISIONS, ORDERS, AND
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VOLUME 42 PUR(NS)

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These reports are published annually in five bound volumes, with an *Annual Digest*. The volumes are \$6.00 each; the *Annual Digest* \$5.00. A year's subscription to PUBLIC UTILITIES FORTNIGHTLY, when taken in combination with a subscription to the Reports, is \$10.00.

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Arkansas Power & Light Company

v.

City of McGehee et al.

[Docket No. 435.]

Appeal and review, § 83 — Appeal to Commission — Rate ordinance.

1. The duty of the Department on an appeal from a municipal rate ordinance is to determine and fix the just and reasonable rate, and if such rate is lower than the rate the company has been collecting since the date of the ordinance, it is the Department's further duty to determine what amounts, if any, should be refunded to the consumers, p. 68.

Rates, § 203 — Unit for rate making — Effect of municipal regulation.

2. A city should be treated as a unit for rate making where the state has conferred on the city council the power to regulate rates, p. 68.

Apportionment, § 15 — Expenses — Gas utility.

3. Allocation of general office and divisional expenses between businesses and between plants on the basis of gross revenue, without regard to cost of service, results in allocated expense items out of proportion to cost of service, where a company operating electric, water, gas, and ice businesses and a few packing plants pays a high cost for gas at a city gate, p. 68.

Apportionment, § 59 — Gas pipe line — Peak demand basis.

4. A pipe-line investment, treated as a unit devoted to the service of three municipalities, should be allocated between them in proportion to peak demands, p. 68.

Valuation, § 36 — Rate base — Original cost and other factors.

5. Great weight should be given to original cost in ascertaining value for rate making, although, owing to a war emergency when costs are inflated, it would probably cost more to build the property than at the time of its construction—if it could be built at all under priority restrictions on materials, p. 69.

Valuation, § 139 — Interest during construction — End of construction period — Pipe line.

6. Interest during construction on a gas pipe line to serve several municipalities should stop on the line to the first of them when service is begun there although it was decided to extend the line further after the first portion of the line was nearly completed, instead of allowing interest during construction in proportion to the use of the line by other municipalities until service to them began, p. 70.

Valuation, § 69.1 — Original cost determination — Payments to affiliates.

7. Fees paid to an affiliated company, based on a percentage of construction costs in the case of one affiliate and a percentage of gross revenue plus amounts expended for construction in the case of the other, should

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be eliminated from original cost, where the only specific service either company is known to have rendered is that they furnished a set of forms for the utility to follow in keeping records of its cost, while the utility company paid all expenses which could be attributed to the activities undertaken by such an affiliate, since these payments are not costs but payments in the nature of dividends, p. 70.

Valuation, § 129 — Overheads — General office expenditures.

8. General office expenditures of a company which was operating a system, with general officers and a general office, at the time of construction of a new plant should be eliminated from original cost of construction if there is no evidence that such expenditures were increased in any amount on account of these construction activities, p. 71.

Valuation, § 104 — Accrued depreciation — Depreciation reserve as measure.

9. The balance in the depreciation reserve should be deducted from original cost as accrued depreciation to determine present value, in the absence of a showing that this balance is excessive, but when accruals to the reserve have been made without particular reference to costs or depreciation experience, it is necessary to set up the amount which the company should have charged to depreciation, p. 73.

Valuation, § 293 — Cash working capital — Concessions to customers.

10. The fact that a utility makes certain concessions to some of its consumers by not requiring them to pay their bills when due cannot be considered in determining the necessary allowance for cash working capital if such concessions are not provided for in the schedules on file with the Department, p. 74.

Valuation, § 313 — Cash working capital — Relation to operating expense.

11. An allowance for cash working capital equivalent to fifty days' operating expenses, after eliminating gas purchases and taxes, was held to be sufficient, p. 74.

Valuation, § 294 — Cash working capital — Minimum bank balances.

12. Customers in one community served by a public utility company should not be forced to contribute towards the keeping of a handsome balance on deposit in the banks; a contention that the company must keep in the bank at all times a substantial amount is an unjust exaction from the customer, p. 74.

Valuation, § 79 — Reproduction cost estimate — Prices.

13. The general level or plateau of prices which applied for years prior and up to a present emergency is the fairer basis to use in trying to find the proper measure of return on utility property constructed many years ago, and great weight ought not to be given to estimates of cost of reconstructing a property which cannot now be reconstructed because of priority limitations on materials, p. 76.

Valuation, § 132 — Overheads — Omissions and contingencies.

14. Allowances for omissions and contingencies, although proper where labor costs on reconstruction are purely an estimate, are not justified where an estimate is based on actual costs, p. 77.

Valuation, § 332 — Going value — Separate allowance.

15. Value for rate making should be determined upon the basis of a plant in successful operation—a going concern—with allowances for all the costs

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and values of everything devoted to the public service, without the addition of a separate item or amount for going value, which would be capitalizing earning power, since value for rate making is not an appraisal of commercial value, p. 78.

Valuation, § 331 — Going value — Necessary evidence to support.

16. A separate allowance for going value on account of development costs must be supported by evidence of actual experience in incurring such costs and evidence that same were not operating expenses, that the company has not already been compensated for the same out of past earnings, and that, in including such cost, the Department would not be capitalizing past losses or past charges properly included in operating expenses, p. 78.

Valuation, § 114 — Financing costs.

17. Capital stock expense and expenses incident to the issuance and initial sale of evidences of debt are not proper elements of cost of reproduction new, p. 79.

Valuation, § 30 — Rate base — Prudent investment.

18. The Department, in giving great weight, in determining the measure of return, to the amount which a company actually invested in the boom year 1929, although considering present costs and other factors, does not deprive the company of its property without due process of law, p. 80.

Return, § 101 — Natural gas utility.

19. A natural gas utility was allowed a return of 6 per cent in view of revenue estimates based on records for an abnormally good year although a rate of return of $5\frac{1}{2}$ per cent was held to be reasonable, p. 81.

Apportionment, § 15 — General office expense — Basis.

20. Allocation of the expense of the general office of a company operating in several communities should not be allocated to the various operations and plants on a gross revenue basis, where the company pays a high price for gas at the city gate in the community where rates are under investigation, thereby increasing the gross revenue out of proportion to the value of services rendered by the general office in serving gas at that point, p. 84.

Appeal and review, § 82 — Powers of Commission — Suspension of ordinance.

21. The Department of Public Utilities does not have power to suspend a rate ordinance retroactively, but its power extends only to fixing the rates which should have been fixed by the municipality in the first instance, ordering those rates to be applied in the future, and ordering refunds, p. 86.

[December 31, 1941.]

A PPEAL by public utility company from city ordinance reducing rates for gas distributed to domestic and commercial customers; appeal sustained and new rate schedule established.

By the DEPARTMENT: The Arkansas Power & Light Company has appealed, under § 15(d) of Act No. 324 of 1935, from the action of the city

council of the city of McGehee, Arkansas, in passing, on December 3, 1940, an ordinance reducing the rates that might be charged by that company for

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gas distributed by it to domestic and commercial customers in said city. The company filed its written complaint here on December 23, 1940.

Prior to filing its complaint here, the company obtained, from the United States district court for the eastern district of Arkansas, a temporary order restraining the enforcement of the ordinance rates. Its prayer here, with reference to a suspension of the ordinance rate, was that if said injunction should cease for any reason, then that this Department suspend the ordinance rate pending the decision on this appeal. In September, 1941, pursuant to the direction or permission of the Federal court, the company applied here for a suspension of the ordinance rate and an order was made here suspending the enforcement of the ordinance.

[1] It is our duty on this appeal to determine and fix the just and reasonable rate to be charged or applied for the service in question. If such rate is lower than the rate the company has been collecting since December 3, 1940, it will be our further duty to determine what amounts, if any, should be refunded to the consumers.

[2] The state has conferred on city councils the power to regulate rates. It has thus recognized the city as a unit for rate making. On this appeal from an exercise of that power by a city, we determine and fix rates on the same basis.

[3] The company is engaged principally in the electric business, in which it serves some 55 counties in the state. It is also, as at McGehee, in the gas, water, and ice business, and it also operates a few packing plants. Some general office and divisional expenses,

are allocated, first between businesses and then between plants. The company does much of this allocation on the basis of gross revenue, without regard to cost of service. Where, as here, a high cost of gas at the city gate causes high operating expenses such a basis results in allocated expense items out of proportion to cost of service.

Findings As to Value of Property

Determination of Property Used

The property being used in serving gas at McGehee consists of the local distribution plant and an allocable part of the pipe line which brings gas to McGehee.

Gas is obtained from the transmission pipe line of the Memphis Natural Gas Company at a point south of the city of Lake Village. The Arkansas Company first built a pipe line from the Memphis Company line to Lake Village. Thereafter the two companies agreed to extend the line jointly on north to serve Dermott and McGehee. The Memphis Company paid a part of the cost and received a deed conveying to it a part of the line.

The point where the ownership of the Memphis Company ends and that of the Arkansas Company begins is north of Lake Village,—between that city and McGehee and Dermott. The company took the position, however, that in fixing rates at McGehee, its pipe-line investment should be considered as devoted to the service of the three towns and should be allocated between them.

[4] We do not agree with the company as to the method of making the allocation. The company seeks to divide the value of that part of the

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line which it owns into three parts; Part I bearing the same relation to the value of the whole as the length of the line from the Memphis line to Lake Village bears to the length of the entire line; Part II being in proportion to the length of the line from Lake Village to the Dermott junction, and Part III being in proportion to the line from Dermott junction to McGehee. It then seeks to allocate Part I between the three towns in proportion to their peak demands, Part II between Dermott and McGehee in proportion to their peak demands, and to allocate all of Part III to McGehee. On the company's method, 73.6 per cent of the value of the entire line would be allocated to McGehee.

If this pipe-line investment is to be treated as a unit devoted to the service of the three towns, as the company desires, then the proper way to allocate its value between the towns is in proportion to the peak demands of the three towns. See *Arkansas Louisiana Gas Co. v. Texarkana* (1936) 17 F Supp 447, 17 PUR(NS) 241; (1938) 96 F(2d) 179, 24 PUR(NS) 267; (1938) 305 US 606, 83 L ed 385, 59 S Ct 66. On this basis, 62.88 per cent of the value of the pipe line should be allocated to McGehee. This is the basis of allocation we find should be used. It is the usual method of allocation. The burden of proof is upon the company and we are bound to decide this question in a way to favor the decision of the city council unless the proof shows that it is obviously unfair to do so. There is no proof that the usual and ordinary method of allocation is unfair in this case.

[5] In ascertaining the value of the property used in serving gas to Mc-

Gehee, we have considered the original cost of construction to date (which includes the amount expended in permanent improvements) and the estimated cost of reconstruction new. *Smyth v. Ames* (1898) 169 US 466, 546, 547, 42 L ed 819, 18 S Ct 418. The record contains no information as to the amount or market value of the bonds or stock issued on the McGehee property. We have given great weight to original cost. The property was built in 1929—a time of high prices and high wages. Due to the present emergency, it would probably cost more to build the property now than it cost in 1929—if it could now be built at all, which we doubt, because, under priorities, materials for new construction are very hard to get. The public should not be required to pay a return on any greater amount than that prudently invested in 1929. Furthermore, "the public is entitled to demand . . . that no more be exacted from it . . . than the services rendered . . . are reasonably worth." *Smyth v. Ames*, *supra*. Due to the high price of gas at the city gate, rates for gas which must be charged at McGehee in order to allow a return on any value at all are considerably in excess of rates for gas generally prevailing in Arkansas—and probably in excess of what the services are reasonably worth. There is no reason for further burdening these rates for the purpose of paying a return on the excess of the present inflated costs over the high costs of the boom year of 1929.

Findings As to Original Cost

Original Cost of Pipe Line

In the latter part of 1928 the con-

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struction of a pipe line, to serve Lake Village was undertaken. Service was begun in Lake Village about July 1, 1929. About May, 1929, after this first construction was virtually completed, it was decided to extend the line to serve Dermott and McGehee. Heavy construction on this extended line began in August, 1929.

The cost of the entire pipe line, as shown on the company's books, was \$195,902.43. Certain adjustments must be made in order to ascertain the true cost.

[6] Interest during construction, as shown on the books, was admittedly calculated to a date beyond the time when construction was completed and service was begun. The accountants for the Department stopped interest during construction on the line to Lake Village when service was begun at that city. This is on the theory that the construction was originally undertaken to serve Lake Village and that the decision to extend the line beyond Lake Village was not made until the first portion of the line was nearly completed. Construction beyond Lake Village was not substantially begun until after service at Lake Village was begun. The company contends that, as Lake Village now uses only 16.05 per cent of the line originally constructed to serve it, interest during construction on 83.95 per cent of the cost of the line should continue to run until service began at Dermott and McGehee. To apply the company's theory to its logical extent would mean that if it were now decided to extend the line to some town beyond McGehee and that town should use 25 per cent of the capacity of the line between McGehee and the Memphis Company

mains, then that interest during construction on 25 per cent of the entire cost of this line, built in 1929, would continue until this new extension, not yet decided upon, shall be completed. We find that the method followed by the accountants for the Department is correct. The elimination of the amount improperly entered on the books for interest during construction on the pipe line is \$5,317.22.

[7] Certain fees paid to the Phoenix Utilities Company and to the Electric Bond and Share Company must also be eliminated. The Electric Power & Light Company owned 100 per cent of the common stock of the Arkansas Power & Light Company. The Electric Bond and Share Company owned approximately 50 per cent of the common stock of the Electric Power & Light Company and all of the stock of the Phoenix Company. They were all affiliated within the definition of our statute, § 1(h) of Act 324 of 1935. When construction was undertaken in Arkansas, certain general office employees of the Arkansas Company, including the chief engineer and other engineers and certain accountants, were transferred, as to a part of their time, to the payrolls of the Phoenix Company, and they organized, planned, supervised, and accounted for all the construction in the same manner that they would have done if there had been no Phoenix Company. The Arkansas Company paid all expenses which could be attributed to the activities so undertaken by it in the name of the Phoenix Company, including all payrolls, material costs, and everything else. Then, when the work was completed, the Arkansas Company paid to the Phoenix Company a

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fee for the services allegedly rendered to it by the Phoenix Company in the amount of \$6,194.26. This was a percentage of the construction costs.

The fee paid the Electric Bond and Share Company was a percentage of the gross revenue plus amounts expended for construction. It amounted to \$1,723.63.

The only specific service either company is shown to have rendered is that they furnished a set of forms for the Arkansas Power & Light Company to follow in keeping records of its costs. Aside from that there was an organization in New York which the Arkansas Company could consult if it wanted to. No effort was made to show the cost to either the Electric Bond and Share Company or the Phoenix Company of any service rendered by either of them to the Arkansas Company. The Arkansas Company, through its own officers and employees, who were then on the payroll of the Phoenix Company, did all the planning, kept all the books, and did all the work. Every known cost incurred by anyone was paid by the Arkansas Company.

These two fees were not costs. So far as the record is concerned, the real owners of this property took money out one pocket and put it in another pocket and charged this transaction up as a part of the cost of construction. An effort has been made to show that these affiliates rendered some service of value and that that value may have been as great as the fees paid, but we understand the law to be that there can be no intercompany profit in such payments and there is nothing in the record from which any cost to the affiliate can be determined or from which

it can be found that the payments were not all profit. So far as this record is concerned they cannot be regarded as part of the investment. These payments were in the nature of dividends. See Consolidated Teleph. Co. v. Georgia Pub. Service Commission (US Dist Ct 1934) 2 PUR(NS) 454.

[8] The company's books also included the sum of \$3,899.12 charged to the cost of construction of this pipe line as miscellaneous general office expenditures. This has been eliminated by the accountants for the Department. At the time of this construction the Arkansas Power & Light Company was an operating system with general officers and a general office. There is no evidence that the general office expenditures of the company were increased in any amount on account of these construction activities. On the contrary, a number of the general officers and employees who were normally on the general office payroll were taken off of such payroll, at least in part, and placed on the payroll of the Phoenix Utilities Company. All of their salaries and expenses which were chargeable to this construction were included in the expenditures of the Phoenix Company and already appear as a part of the cost of construction of this property. Although we feel that possibly some small amount for miscellaneous general office expenditures could properly be included in the cost of this construction, there is no evidence in the record upon which any kind of guess, much less a finding, as to the amount which should be so included can be made. We have made allowance for this in our final finding as to value.

The total of these eliminations is

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\$17,134.23. When this is deducted from the \$195,902.43 shown on the books, it leaves \$178,768.20 as the cost of constructing this pipe line.

The Memphis Natural Gas Company paid \$120,000 toward the construction of this line, and thereupon the Arkansas Power & Light Company conveyed a part of the line to the Memphis Company. This leaves the sum of \$58,768.20 as the original cost to date to the Arkansas Power & Light Company of the pipe line.

The company contends that this cost is \$75,902.43. Aside from the contention that the amounts above eliminated are a part of the cost, the company contends that when settlement was had with the Memphis Company, that company accepted the book cost and that the mileage of the line conveyed to the Memphis Company was approximately 120/195 of the entire mileage. So, it contends, the Memphis Company reimbursed the Arkansas Company for a proportionate part of the amounts charged on its books for the items above eliminated. In our opinion, the controlling facts are that the actual out-of-pocket cost of this line was \$178,768.20, of which the Arkansas Company has received back \$120,000, which leaves an out-of-pocket cost of \$58,768.20. This is all that the affiliated companies actually expended for that portion of its pipe line to which the Arkansas Company retains title.

As above set forth, the city of McGehee uses 62.88 per cent of this line and the value of that part of the pipe line used in serving gas to McGehee is 62.88 per cent of the total. This results in a determination of \$36,953.45 as the original cost to date of

that part of the transmission pipe-line system devoted to serving gas to the city of McGehee.

Original Cost of Distribution Plant

The original cost of the distribution plant shown on the company's books is \$83,498.69. Property costing \$623.44 has been retired. This leaves a book balance of \$82,875.25. From this we eliminate the Phoenix Company fee in the amount of \$2,499.35, the Electric Bond and Share Company fee in the amount of \$713.23 and miscellaneous general office expenditures in the amount of \$1,525.08. These eliminations are made for the reasons stated under the discussion of the cost of the pipe line. The elimination for excess charge for interest during construction is \$1,527.40. This is made for the reasons stated above. These eliminations amount to \$6,265.06, leaving a corrected total cost of the McGehee distribution plant of \$76,610.19.

The Total Original Cost

The total original cost to date of the pipe line and distribution plant serving gas to the city of McGehee is the sum of \$113,563.64. To this there must be added an amount for the general property of the company, other than the pipe line and distribution plant, which is used in serving gas at McGehee. This includes general and local office property, transportation equipment, laboratory equipment, and similar items. The company contends that the sum of \$3,276.82 should be allocated to gas service at McGehee as the value of its part of such property, and this figure is accepted. This results in a total cost for the property

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devoted to gas service at McGehee in the sum of \$116,840.46.

Accrued Depreciation

The nondepreciable property included in the above total includes \$1,755.-88 for the distribution plant and \$3,-292.27 for the transmission property, or a total of \$5,048.15. This nondepreciable property consists primarily of land and land rights. This leaves the cost of depreciable property in the transmission and distribution plants to be \$111,792.31.

[9] In order to determine the present value of the property as compared to its original cost, there should be deducted from the original cost the accrued depreciation. In an original cost study, this should be taken as the balance in the depreciation reserve in the absence of a showing that this balance is excessive. The company's books are not kept in such a manner that it is possible to ascertain from them what amounts have been charged against expenses for depreciation on the McGehee property nor what balance now remains out of the amounts so charged.

City's Exhibit 6 shows the analysis of the depreciation reserve of the company as a whole for the years 1926 to 1940, inclusive. Accruals to the reserve seem to have been made without rhyme or reason and without any particular reference either to the cost of the property or the experience of the company with reference to depreciation. This seems to have been realized by the company in 1937, when a sum in excess of \$1,600,000 was transferred from surplus to the depreciation reserve to make some adjustment for previous failures to accrue the proper

amounts. It is therefore necessary to set up now the amounts which the company should have charged to depreciation on this McGehee plant from the time this property was constructed.

The evidence of the company is to the effect that the annual charge for depreciation should be not less than 2 per cent and not more than $2\frac{1}{2}$ per cent on the depreciable property. The evidence of Mr. Cobb, an engineer for the Department, who made detailed studies of the condition of the property of the company and the amount that should be accrued for depreciation, was that the annual over-all rate should be slightly less than $2\frac{1}{4}$ per cent, which he called $2\frac{1}{4}$ per cent. This over-all rate was based on the total value, including nondepreciable property. When the nondepreciable property is eliminated, it leaves an annual rate on the depreciable property of 2.331 per cent. If this rate had been charged on the original cost of the property from 1929 to 1940, the total charges for depreciation, less property retired and charged against the reserves, would have been \$27,620.98. As pointed out later, the Department's engineers found an accrued depreciation, based on observed condition and estimated cost of reconstruction, of \$29,095. The company's estimate, based on 80 per cent condition, is even larger.

When this balance, which should be in the depreciation reserve, is deducted from the original cost of the property as above determined, it leaves a present value, on the original cost basis, of the property used in serving gas to McGehee of \$89,219.48.

In the case of Knoxville v. Knox-

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ville Water Co. (1909) 212 US 1, 14, 53 L ed 371, 29 S Ct 148, the United States Supreme Court pointed out that it was the plain duty of the company to set up a reserve sufficient to maintain the value of the property invested and the court then said: "If, however, a company fails to perform this plain duty and to exact sufficient returns to keep the investment unimpaired, whether this is the result of unwarranted dividends upon overissues of securities, or of omission to exact proper prices for the output, the fault is its own. When, therefore, a public regulation of its prices comes under question, the true value of the property then employed for the purpose of earning a return cannot be enhanced by a consideration of the errors in management which have been committed in the past."

In the case at bar it cannot be determined what reserves have been set up for depreciation on this McGehee plant. It cannot be determined whether the company has set up too much or too little, or whether its actions or failures to act were due to unwarranted dividends upon overissues of securities, or whether they are due to failure to secure proper prices. Certainly, the action of the company in so keeping its records that neither it nor anyone else can determine what is the balance in the depreciation reserve on the McGehee property should not serve to enhance the value of the property now being employed in the public service. In ascertaining what portion of its investments the company is now devoting to the public service at McGehee, we set up the depreciation reserve upon the best evidence available to us in the record.

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Accordingly, we find that the original cost of the property used in serving gas at McGehee, less depreciation, is the sum of \$89,219.48.

To this total there must be added certain amounts for materials and supplies and for working capital.

The evidence of the company as to the amount to be added for materials and supplies is \$300 and this amount is accepted.

[10-12] The company contends that the amount which should be allowed for working capital is \$3,950. It included in that the sum of \$2,254.80 on account of average monthly accounts receivable, the sum of \$63.92 for the average monthly payments for gas merchandise sales. It then included an item as the amount of minimum bank balances which it would be necessary to keep in the banks to establish the banks' good will. The company figured for its whole business, that it was necessary to keep \$250,000 in the banks at all times in order to secure the good will of the banks, and that the amount allocated to gas service at McGehee out of this total would be \$1,169.25. It then included \$153.94 for manager's fund. It then included an item of \$310 for prepayments of insurance and taxes. This gave a total of \$3,951.96.

The accountants for the Department testified that a sum of \$1,625 was a sufficient allowance for working capital for the gas operations at McGehee. It is clear that the company does not pay for the gas which it purchases any appreciable length of time before it receives payment from its customers. The bills from the Memphis Natural Gas Company for gas cannot be made up until the Ar-

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Arkansas Company has prepared and abstracted all of its bills against its own consumers. Payments from its consumers are due in ten days and its payments to the Memphis Natural Gas Company are due in fifteen days after the Memphis Company bills the Arkansas Company. The Arkansas Company contends that it makes certain concessions to some of its consumers in McGehee by not requiring them to pay their bills when due, but such concessions are not provided for in its schedules on file with this Department and cannot be considered. The accountants for the Department, after eliminating gas purchases and taxes, allowed to the company all of the amounts which it would pay out for fifty days' operations. They took the total of the distribution expenses, both operations and maintenance, all customer expense, new business expense, all local administrative and general expense, and the general expense of the Pine Bluff office allocated to McGehee. For one year these amount to \$11,859.78, and that portion of this total which would be the expenses incurred during the 50-day period amounts to \$1,624.63. It occurs to us that this is an ample allowance for working capital. We cannot find that the customers at McGehee should be forced to contribute toward the keeping of a handsome balance on deposit in the banks. This company handles some ten to twelve million dollars through the banks each year and it occurs to us that to force the consumers of the company as a whole to pay a return on \$250,000, which the company contends it must keep in the banks at all times in order to maintain their good will, is an unjust exaction

from the customers. Except for insignificant items, like a franchise tax, the company accrues its taxes far in advance of any payment of the same, and we do not think that any amount should be included on account of taxes. All payments for insurance are included in the fifty days' expenses, included in the figure of \$1,625, and we do not think that this figure should be increased on account of any possible payment of insurance premiums prior to the accrual of these items.

When these items for materials and supplies and working capital are added to the depreciated original cost, it results in a total figure of \$91,144.48 as being the present value of the property of the company used in serving gas at McGehee, as reflected by the actual investment of the company in that property.

Present Cost of Construction

The company's estimate of cost of reproduction new of the distribution plant and an allocable part of the pipe line, is \$182,705. In order to compare this with the estimate made by the Department's engineers, we exclude, for the time being, certain items not contained in the latter estimate. These are going concern value (\$15,000), capital stock expense (\$1,368), expenses incident to the issuance and initial sale of evidences of debt (\$2,348);—a total of \$18,716. This leaves, for purposes of comparison, an estimate of \$163,989.

The estimate made by the Department's engineers shows a cost of reproduction new of \$129,242. For purposes of comparison, we must add an allowance for cash working capital, which amount, as already indicated,

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we find should be \$1,625. This gives a total of \$130,687. The difference in the two estimates so compared is \$33,302.

The company presented no positive evidence as to the amount of accrued depreciation. It contended that the property was in not less than 80 per cent of new condition and not more than 90 per cent. After making the eliminations above stated, the company's estimate of the cost of reproduction new less accrued depreciation on an 80 per cent condition would be \$132,161; on an 85 per cent basis, it would be \$142,118; and on a 90 per cent basis it would be \$148,075.

Accrued depreciation was calculated by the engineers of the Department on two bases. The first basis was the measured pit depth found by an inspection of the pipe at a number of different locations, from which the present observed condition was calculated under formulae developed by the National Bureau of Standards. This resulted in an over-all observed present condition of 77.49 per cent and a present value of \$101,772, including cash working capital. The second method used the measured pit depth as a basis for calculating the average expected service life, using also formulae developed by the National Bureau of Standards. This resulted in an over-all present condition of 81.63 per cent, and a present value of \$107,131, including cash working capital.

A part of the difference in the undepreciated reproduction cost is in the estimate for cash working capital. The company included \$3,950,—an excess of \$2,325 over the amount we find proper.

Another part of the difference is due

to the different methods used in determining what part of the transmission pipe line is devoted to serving gas at McGehee. We have already found that the proper proportion is 62.88 per cent. The company allocated 73.6 per cent. If the company had used the lower percentage, its total for McGehee would have been reduced by \$8,787.

The other differences between the two estimates are not easy to reduce to figures.

[13] Pipe prices carried into the two estimates were different. For example, the company's delivered price for 6-inch pipe is 58.32 cents per foot. The Department's engineers used a price of 53.89 cents per foot. The quoted prices for pipe have not changed since about July 1, 1938. During many years prior and up to the present emergency, it was the universal practice to allow certain discounts from the quoted prices—discounts which, to some extent, depended upon the quantity purchased. The company's engineers used prices and discounts applicable during the present emergency, and quoted to them by pipe companies "for estimating purposes only." The Department's engineers used the same prices but applied the discounts which were universally applied prior to the emergency. We think that the general level, or plateau, of prices which applied for years prior and up to the present emergency is the fairer basis to use in trying to find the proper measure of return on utility property constructed many years ago. Pipe cannot be purchased now for new construction, except where defense project priorities can be obtained. Great weight ought

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not be given to estimates of the cost of now reconstructing a property which cannot be now reconstructed. These differences in material prices account for a large part of the difference between the two estimates. We have not attempted to reduce the difference to dollars.

Another large part of the difference is due to differences in the estimate of labor costs.

Curious inconsistencies appear in the company's labor costs. It claims that it costs, without labor overheads, 29.7 cents per foot to install 6-inch pipe, 24 cents per foot to install 10-inch pipe and 20 cents per foot to install 8-inch pipe—all on the same transmission line. In the distribution plant, it is claimed that it costs 30 cents per foot to install 2-inch pipe—a cost that is apparently out of reason.

The company's testimony is that it ascertained the actual labor costs on the original construction and increased them by 25 per cent to obtain present labor costs. The use of this percentage appears to be a rather arbitrary way of arriving at present costs, but for this discussion, it is assumed to be fair. The use of this method has resulted, however, in some unjustifiable increases in costs.

[14] For example, the company after taking original labor costs and increasing them by 25 per cent to arrive at present costs, adds thereto 4 per cent, in the distribution plant and 2 per cent in the pipe line, to cover omissions and contingencies. An allowance for omissions and contingencies is proper where labor costs on reconstruction are purely an estimate, but there is no justification for any such allowance on labor costs here, where

the estimate is based on actual costs.

In the distribution plant, the figure taken from the original construction records for the direct labor cost in installing mains and services is \$22,-385.29. This includes payrolls, contract labor, auto, team, and truck expense, travel and lodging, miscellaneous expense and expense of rebuilding ditches. The company's engineer testified he eliminated contract labor before adding his 25 per cent, but he did add it to all the other items. No justification was shown for adding it to any of them except the payrolls. The total labor costs shown in the estimate for the distribution plant, however, indicates that the 25 per cent was added to everything, and then something added for good measure. For example, the total labor costs shown on the original work orders for installing mains and services is \$22,-385.29. One hundred and twenty-five per cent of this would be \$27,981.61. On page 15 of Exhibit "L," the estimate for the cost of installing the mains alone is \$27,309.18. In addition, on page 20 there is an item of \$3,100.19 for installing services. The total direct labor costs shown on the work orders for the distribution plant are \$22,939.29. One hundred and twenty-five per cent of this would be \$28,674.11. The total direct labor costs in the estimate for the same plant are \$31,759.59. It is thus apparent that the labor costs in the estimates are in excess of 125 per cent of the original actual costs. The company's estimate of present labor costs does not follow very closely the explanation and justification for them in the testimony.

All of the indirect labor costs are

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based on percentages of the direct labor costs. If the direct costs are not justified, it follows that indirect costs are bound to be exaggerated.

The engineers for the Department, in their estimates of labor costs, follow the usual procedure of setting up what are considered typical labor gangs, estimating their wages at present prices, and estimating the work such a gang would perform per day under present working conditions.

Another difference between the engineers is in the estimate of general overheads. The Department's engineers allowed a total of 11.44 per cent. The company used 13 per cent on the transmission lines and 15 per cent on the distribution system, and in addition made separate allowances of \$648 for items included in the 11.44 per cent estimated by the Department's engineers. We have already discussed the 4 per cent allowed by the company for omissions and contingencies on labor costs.

The company's estimate contained allowances for three items for which nothing was included by the Department's engineers. These are: Going value \$15,000; capital stock expense, \$1,368; and expense incident to issuance and initial sale of evidences of debt, \$2,348;—a total of \$18,716.

[15, 16] In considering the company's claim that there must be a separate allowance in a specific sum for going value we must keep in mind that we are not attempting to establish a commercial value. Value for rate making is not an appraisal of commercial value. What we are doing is to determine a proper measure of the return to which the owners of the property are entitled for the use of the

same, over and above all of their proper expenses. That measure is the value of what the owners have devoted to public service. No item should be included which the owners did not devote to such service. That value must be determined, and we do determine it here, upon the basis of a plant in successful operation—of a going concern. It did cost, and it would cost now, a certain amount, over and above the direct costs of the items of property and of labor, to buy these various items of property, to assemble them, to construct the plant, and to devote it to the public service. This underground system of pipe would have a value far less than these costs if the system were not in actual use for the very purpose for which it was installed. When we adopt as a measure of value, either the original cost, or the present cost, of installation, we are valuing the property as a going concern—not valuing merely the bare bones. After we have given effect to all costs of purchase and construction, including all the overhead costs of putting the property together and of devoting it to the public service, we have placed a value on everything that was, or is, devoted to the public service. We cannot, on this record, include an additional separate item or amount for going value without capitalizing earning power. If we attempt to add an additional amount, on this record, such amount would rest upon no property, nor investment, which the evidence shows has been devoted to, or is used in, the public service.

Attached customers are not items of property which were devoted to the public service by the company. Further, the company has a monopoly, and

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anyone who wants gas must resort to the "old stand" or do without. To attempt to value this situation is to capitalize monopoly.

Efficient management has been paid for by the consumers already in operating expenses. We cannot make them pay for it again by capitalizing it.

If there can be any justification for a separate item of value for going concern it must be on the basis that the actual history of this very plant shows there were outlays in the nature of capital expenditures—like general construction overheads—incurred to reach the state of a going concern, and which are not covered in the items we have included. Such development costs must be carefully separated from ordinary operating expenses. From aught that appears in this record, if there were any such expenses they may have been already compensated for out of rates previously collected. The record indicates that the company has been earning more than a fair return. In the absence of clear proof, it is not to be presumed that the company is now under the necessity of making up past expenses incident to the experimental or developmental stage of its business, if there was such a stage. Any such alleged development costs must be clearly differentiated from past losses. Past deficits, or past failures to earn a fair return, are not to be capitalized. *Galveston Electric Co. v. Galveston*, 258 US 388, 66 L ed 678, PUR1922D 159, 42 S Ct 351.

To justify us in adding a separate value on account of such development costs, a company must present concrete evidence of its actual experience in incurring such costs, that same were not operating expenses, that it has not

already been compensated for same out of past earnings, and that in including such costs we would not be capitalizing past losses or past charges which are properly to be included in operating expenses. This the company has not done. Accordingly, we are not justified in including, in the measure of the return which the consumers must pay the company for the use of the property which the company has devoted to the public service, any separate item to cover property or investment which the record does not show has been devoted to such service.

[17] The company in its estimated cost of reproduction new included an item of \$1,368 for capital stock expense and an item of \$2,348 for expenses incident to the issuance and initial sale of evidences of debt. The total of these two items is \$3,716.

These items are not proper elements of cost of reproduction new and we exclude them. What we are attempting to estimate is the present cost, and in order to do so we assume the construction of this property by persons financially able to construct it. Otherwise, the more impecunious the organizers, and the more subject to excessive costs of procuring money, the greater would be the present value of the property.

In the case of *Minneapolis v. Rand* (1923) 285 Fed 818, 829, the circuit court of appeals for the eighth circuit pointed out that alleged reconstruction costs of this nature were assumed upon the theory that the company, planning to build this plant, should not be possessed of sufficient money and should be compelled to borrow money by floating securities through brokers,

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and would be exposed to large discounts in this way. It said:

"The fair value of the plant should not be estimated upon such a basis of impecuniosity and exactions, but upon the theory, if used, of reconstruction by those financially able to build the plant, paying reasonable prices therefor."

Similarly, in *Colorado Power Co. v. Halderman*, 295 Fed 178, 191, PUR 1924D 789, the court held that the cost of marketing securities was not a proper item to go into the rate base.

In *Galveston Electric Co. v. Galveston*, *supra*, 258 US at p. 397, PUR 1922D at p. 167, the district court had excluded such alleged costs of marketing stocks and bonds and this action was affirmed by the Supreme Court. That court pointed out that such costs might be proper for consideration on the original cost basis of valuation and it said:

"But, as the base value considered is the present value, that value must be measured by money; and the customary cost of obtaining the money is immaterial."

Similar costs are excluded in the case of *Wabash Valley Electric Co. v. Young*, 287 US 488, 500, 77 L ed 447, 455, PUR1933A 433, 53 S Ct 234, the court pointing out that there was no evidence that such cost was incurred or that it necessarily would be incurred in the event of reconstruction.

Similar items in the estimate of the cost of reconstruction were excluded in the *Los Angeles Gas Case*, 289 US 287, 310 77 L ed 1180, 1195, PUR 1933C 229, 53 S Ct 637, and in the *Dayton Gas Case* (1934) 292 US 290, 310, 78 L ed 1267, 1281, 3 PUR(NS) 42 PUR(NS)

279, 294, 54 S Ct 647. In the latter case the court said that under recent decisions the exclusion of this item was proper as being remote and conjectural. The court also said:

"We are to remember that the cost of reproduction is a guide, but not a measure."

Conclusions As to Value

[18] This case illustrates the effect on the public of using estimates of present reproduction costs as the controlling element in findings of value rather than using actual prudent investment. This property was built in 1929, at the height of the Hoover boom. Actual prudent investment at that time is a fair measure of the rate base. Using the company's methods of allocating the pipe line and of calculating interest during construction, which methods we do not approve, the cost in 1929 was \$139,190. After eliminating intercompany profits, there remains a cost of \$128,060. The company's estimate is that it would cost \$182,705 to build this property now, and it contends that this estimate ought to be given great weight in arriving at the measure of the return which the consumers must pay. We cannot see that we are depriving the company of its property without due process of law if we give great weight, in determining the measure of its return, to the amount which it actually invested in 1929. This is simply good common sense, and, as Winslow, C. J., said in *Madler v. Kersten* (1920) 170 Wis 424, 427, 175 NW 779, 780, "good common sense is frequently law."

Considering all the facts before us, including original cost, present cost of

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construction, accrued depreciation, and the fact that the items of property making up the plant are a going concern operating, with business attached, in the manner and for the purpose for which they were installed; and giving to the current level of prices the full effect to which we find it is entitled, and allowing for any intangible elements of value, and for all costs of attaching business, in so far as same are shown to have been incurred and accounted for, not fully cared for in the previous discussion and in the usual and current operating expense, we find that the fair value as of December, 1940, to be used as the measure of the return, to which the owners are entitled and which the consumers must pay, for the use of the property, including materials and supplies and working capital, devoted by the owners to the service of gas at McGehee, is the sum of \$95,000.

Rate of Return

[19] For reasons hereinafter stated we fix the rate of return at 6 per cent, although we find that $5\frac{1}{2}$ per cent is a reasonable rate of return under present conditions. It is equal to, or exceeds, the return generally being made at this time and in this general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties, and it is reasonably sufficient to assure confidence in the financial soundness of the company and is adequate under efficient management to maintain and support its credit and enable it to raise money necessary for the proper discharge of its public duties.

As to the return now being made by

similar undertakings in this part of the country, the best information shown in the record is from statistics published by the Securities and Exchange Commission. These statistics cover the operations of all utility subsidiaries of registered holding companies. There appear to be 49 such companies in Arkansas and the states on which it borders. The over-all weighted average for these 49 companies of net operating revenue to investment for 1940 was 5.2 per cent. The simple average was 5.65 per cent. The weighted average more correctly reflects the relation between net earnings and investment for the territory as a whole.

Ten of the companies included serve gas only. Their earnings in 1940 were:

St. Louis County Gas Company	5.5%
Arkansas Louisiana Gas Company ...	3.42%
Community Natural Gas Company ...	3.89%
County Gas Company	8.16%
Dallas Gas Company	5.91%
Laclede Gas Light Company	3.41%
Southern Natural Gas Company	8.43%
Texas Cities Gas Company	3.69%
United Gas Corporation	3.44%
West Texas Gas Company	7.97%

Of these the only one operating in Arkansas is the Arkansas Louisiana Gas Company. It also operates in Texas and Louisiana. Its return was 3.42 per cent.

The Arkansas Power & Light Company, the appellant here, earned 4.84 per cent according to its reports to the Securities and Exchange Commission.

While we can assume that in many utility companies the investment shown on the books, and so reflected in the returns to the SEC, are in excess of actual value, we cannot help noting that the returns by the biggest of these gas operators run well under

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4 per cent. The United Gas Corporation investment is over 275 millions. It earns 3.44 per cent. The Laclede Gas Light Company earns 3.41 per cent on nearly 58 millions. The Arkansas Louisiana Gas Company earns 3.42 per cent on over 51½ millions. If we assume the values of these three companies are 25 per cent lower than their book investment, we still do not reach a 5½ per cent return.

Accordingly, we find that a return of 5½ per cent is at least equal to, and apparently is considerably in excess of, the return generally being made in this general part of the country in other business undertakings which are attended by corresponding risks and uncertainties. All of the companies described with earnings of less than 5½ per cent are regarded as financially sound.

At the present time, utilities in Arkansas, including gas utilities, are able to borrow large amounts of money on long-term bonds at a coupon rate of 3½ per cent. Some have done so recently. These include the Southwestern Gas and Electric Company, the Arkansas Louisiana Gas Company, Texarkana Water Corporation, and Arkansas Utilities Company. In the fall of 1941, the Missouri Utilities Company, operating in Missouri and northeast Arkansas, sold bonds, due in 1971, in the sum of \$3,150,000, bearing interest at the rate of 3½ per cent. These were sold to Dillon, Reid & Co. for 104¼ per cent of par value and were resold at once to the Equitable Life Assurance Society for 104¾ per cent, making the effective interest rate 3¾ per cent.

The Securities and Exchange Commission reports show that in 1940 it

approved bond issues of electric and gas utilities, 43 issues, in the amount of over 759 millions, having an average coupon rate of 3.29 per cent, and sold at prices such that the yield to the investor was 3.05 per cent.

The record also contains abundant evidence that 5 per cent is a sufficient dividend rate on preferred stock. The Southwestern Gas and Electric Company and Missouri Utilities Company have both floated such issues at such a rate very recently.

If the McGehee gas plant were capitalized with bonds, preferred stock, and common stock in the same proportions as the present capital structure of the company, with bonds bearing interest at 3½ per cent and preferred stock dividends at 5½ per cent, then a return of 5½ per cent on the total value would yield a return of 10.79 per cent on the common stock.

The record reflects that a capital structure of 60 per cent bonds, 15 per cent preferred stock, and 25 per cent common stock and surplus is not unusual and has been frequently approved by regulatory bodies. With the same rates of 3½ per cent on bonds and 5½ per cent on preferred stock a return on value of 5½ per cent on the whole would leave 10.30 per cent return on the common stock.

We find that a rate of return sufficient to yield 10 per cent on the stockholders' equity, after making adequate provisions for a proper capital structure in so far as bonds and preferred stock are concerned, is adequate to maintain and support the company's credit and enable it to raise money necessary for the proper discharge of its public duties.

The bonds and preferred stocks of

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the company bear higher rates than $3\frac{1}{2}$ per cent and 5 or $5\frac{1}{2}$ per cent. But the customers of the company ought not to be penalized by the failure of the company, for any reasons whatever, to take advantage of the low money rates now in effect and which have been in effect for some time. Utilities in Arkansas, as well as elsewhere, have been able to reduce the burdens of their interest and preferred dividends. The Southwestern Gas & Electric Company has done it. So has the Arkansas Louisiana Gas Company. So have several smaller companies in this area. No reason has been shown why the rates of this company must be so fixed as to permit interest rates far higher than others are paying and still leave a handsome return for the equity owners.

As explained below under expenses, we use the consumption for the year 1940 in estimating the effect of the rate schedule. The evidence indicates that 1940 was an abnormally good year. We are compelled to use it for the reasons stated below. If we had in the record competent evidence of expenses and consumption covering a longer period, on which we could make a forecast of the future free from the effect of the extended cold season of 1940, we should use a rate of return of $5\frac{1}{2}$ per cent. We do not have such evidence and must use 1940 figures. In order to make an adjustment for this, we use a rate of return of 6 per cent instead of the $5\frac{1}{2}$ per cent which we find to be a fair and reasonable rate of return.

Expenses

Gas is served at McGehee by a company whose primary business is the

generation, transmission, and sale of electricity, but which also distributes gas, operates some water plants, ice plants, and a few meat-packing plants. Some of its expenses must be allocated between its different businesses and plants.

In the estimates of expenses and revenues which follow we have used those for the year 1940. As to revenues, it has been objected that the year 1940 was not a normal gas year and that sales for that year may not fairly reflect the sales to be expected in a normal year in the future.

The first testimony put on by the company showed expenses for other years than 1940 but these expenses were so largely based on estimates and allocations that they were rejected as unsatisfactory and not sufficient to discharge the burden of proof. In spite of the fact that the statute authorizes city councils to regulate rates, the company does not keep its books in such a manner as to reflect its actual expenses in the city, and, when it appealed from the action of the city council of McGehee, it undertook to discharge the burden upon it by allocations, first to its gas business as a whole and then to its McGehee gas operations, of its general and district expenses—expenses incurred in its various and scattered businesses. When these estimates were rejected it asked and obtained time to make a cost study from time records of its McGehee expenses and when these came in they were for 1940 only. Therefore, the only competent evidence of expenses was for 1940 and we have accordingly based our estimates of revenues on 1940 consumption. Further, 1940 consumption is the only one for which

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the record shows sufficient detail as to the per customer consumption to enable us to apply any rate structure.

We think any apparent injustice to the company in using 1940 consumption is taken care of by the fact that cost of gas is such a large part of the expenses. If, as the company fears, it won't sell as much gas in 1941 as it did in 1940, it won't have to buy as much gas and its expenses will be much less.

Furthermore, as we have indicated, we have raised the rate of return from $5\frac{1}{2}$ per cent, which we think is fair and reasonable, to 6 per cent in order to provide an additional margin against any possible unjust effect of our using 1940 per customer consumption in estimating the revenues to be realized from the rates hereinafter fixed. If we had had competent evidence as to actual expenses for three or four years and per customer consumption for the same years, we should have confined the rate of return to $5\frac{1}{2}$ per cent. The record also reflects that there has been a steady growth in the number of customers at McGehee and estimates for the future must give effect to this fact.

The final study of actual expenses was made by Company Witness Summers, who prepared its Exhibit "Q." He seems to have done a good job in ascertaining the expenses which can be directly charged, and thereby reducing the amounts which must be allocated. The direct expenses ascertained by him are accepted as correct. His total of expenses within the McGehee division includes, however, \$3,014.80 of allocated expenses.

On page 108 of his exhibit he shows the data for several different bases of allocation. He used a composite of all

these bases. The burden of proof being on the company and no reason being shown why the lowest reasonable basis of allocation should not be used, it should be used. On such basis, his allocated local expenses should be reduced by \$110.76, leaving a total expense, including cost of gas at the city gate, but not including taxes, general office expense, or depreciation, of \$28,833.10.

Actual ad valorem and general taxes were \$2,635.04 in 1940.

[20] The expense of the general office of the company is, by it, allocated to the various operations and plants on a gross revenue basis. This is, in our opinion, unfair. The company pays a high price (we think too high a price) for gas at the city gate. This increases the gross revenue out of proportion to the value of any services rendered by the general office of the company in serving gas at McGehee. The company exhibit shows, for example, that under the old rate the amount of general office expense to be allocated to McGehee is \$3,435.68, while if the city ordinance rate was in effect the amount of such expense would be \$2,380.47,—a difference of \$1,055.21. It cannot be contended that there is any reasonable connection between the cost of the service rendered to McGehee gas customers by the general office and either of the amounts shown in the company exhibits. It is just an allocation, made without consideration of any of the factors affecting the volume of gross revenue. The company might just as well ask \$5,400 at \$3,400 or \$2,300. In view of the fact that the cost of gas at the city gate is included in expenses at what we regard as too high

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a rate and that some consideration should be given to this fact in an allocation even remotely connected with gross revenue, we think that the maximum amount of general office expense to be allocated to the McGehee gas business is \$2,000. All direct services rendered by the general office, such as preparation of bills and the time and expenses of gas superintendence, have already been included. All the local managerial, superintending, accounting, and other expenses are also included. This allowance of \$2,000 is approximately 4.6 per cent of the total expense. It is not shown by any evidence in the record to be insufficient. The city might be justified in contending it is too high.

We find that the expenses of the McGehee gas operations should include an annual charge of \$2,605.88 on account of depreciation. The original cost of the depreciable property is \$111,792.31. The annual rate of depreciation is 2.331 per cent.

The annual return used by us is 6 per cent of \$95,000 or \$5,700.

Income taxes on the above annual return will be included in the amount of \$1,680. The company's ratio of bonds to investment is 56.22 per cent. This percentage of \$95,000 is \$53,409. Interest on this sum at 3½ per cent is \$1,869. Deducting this from the \$5,700 return leaves a net income of \$3,831. The additional amount to pay income taxes on such income, which must be included in revenue to provide a net return to the company of \$5,700, after the payment of income taxes, is approximately \$1,680. No income tax calculations have been offered in evidence, but we understand that on the basis of 1940 income, less

reductions in 1941 income, through other reductions in rates, the company as a whole will probably pay no excess profits tax on 1941 income and we allow for none. There is no evidence that any will be paid. In view of the actual bond interest rate of 5 per cent, the actual income tax would be lower than the amount we include. The record contains no exact estimate of income tax. The amount we allow is, in our opinion, a fair amount.

This gives a total expense, including depreciation, return, and income tax, for the operations of the company in serving gas at McGehee, as follows:

Operating expenses	\$28,833.10
Ad valorem and general taxes	2,635.04
Pine Bluff general office expense ..	2,000.00
Annual charge for depreciation ...	2,605.88
Return	5,700.00
Income taxes	1,680.00
Total	\$43,454.02

Rates will be fixed to provide the above amount of annual revenue, although the price paid for gas at the city gate is so high that rates to provide such an income may be in excess of what the services rendered are reasonably worth.

The cost of gas included in the above expense is \$21,313. This leaves \$22,140 as the cost of distributing gas. For purposes of comparison, we eliminate income taxes, depreciation, and return, leaving \$12,155. In 1940, there were 628 customers. The cost of distribution per customer is \$19.35. The per customer cost of the Arkansas Louisiana Gas Company in Arkansas in 1940 was \$18.07. The per customer cost of the Empire Southern Gas Company at Clarksville (752 customers) was \$15.21. That of the Fort Smith Gas Company at Fort Smith

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was \$8.64. At Hot Springs the cost was \$11.53 per customer. At Malvern (669 customers) it was \$14.53. All of those figures exclude income taxes. It will thus be seen that, aside from the cost of gas at the city gate, the expenses allowed at McGehee are high.

If anything more than lip service is to be given to the doctrine that the public is entitled to demand that no more be exacted from it than the services rendered are reasonably worth, then we cannot increase any of the estimates or allowances hereinbefore made. No reasonable excuse has been offered as to why it costs \$19.35 per customer to distribute gas at McGehee, while it can be done for \$14.53 at Malvern and for \$15.21 at Clarksville. Undoubtedly a part of the high apparent cost is due to allocation of expenses—particularly to allocation on a gross revenue basis.

The revenues which the rate fixed by the city council will provide are \$34,747.89, less the sum of \$123.64 increase in the cost of gas due to raising some customers, or a net revenue of \$34,624.25. This is less than the amount necessary to pay expenses, depreciation, and return. We find this ordinance rate to be unreasonably low.

Having found that the rate fixed by the city council is too low, it is our duty under §§ 15 and 18 of Act 324 of 1935 to determine and fix a reasonable rate or rates to be charged at McGehee in lieu of the rates fixed by the city council; and, aside from the matter discussed below, to be applied retroactively from the time the city council rate would have taken effect, and to determine the amount, if any, to be refunded to the consumers.

In this case the city council enacted

the ordinance reducing the rates on December 3, 1940. This appeal was filed with this Department on December 23, 1940. In the meantime, the company had applied for, and had obtained from the United States district court for the eastern district of Arkansas, an order enjoining the enforcement of the ordinance. In its complaint filed with this Department this fact was set up. The company did not ask that the rates fixed by the city council be suspended under the provisions of § 15 of Act 324, but it did, after setting up the fact of said Federal court order, pray "that if for any reason the said injunction should cease and the operation of said ordinance no longer be enjoined, this Commission immediately suspend the operation of said ordinance, as provided by Act 324 of the Acts of Arkansas for the year 1935, and contemporaneous with said suspension, fix the amount of the bond which the Arkansas Power & Light Company shall file in connection with the suspension of said ordinance."

We understand the fact to be that said United States district court, on a hearing on a motion to dissolve the restraining order which it had issued in December, 1940, directed, or permitted, the company to apply to this Department for a suspension of said ordinance. Said application having been made, this Department did, under date of September 15, 1941, suspend the effect of said ordinance pending the final investigation and determination by this Department of this appeal.

[21] The situation is, therefore, that in so far as any order of this Department is concerned, said ordinance was not suspended prior to September

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1941. In our opinion, we do not have the power to suspend an ordinance retroactively. For any adjustment of their rights between December 3, 1940, and September 15, 1941, the parties must look to the Federal court. Our power extends only to fixing the rates which should have been fixed by the city council in the first instance, and in ordering those rates to be applied in the future, and in ordering refunds down to the basis of such rates for all amounts which the company has collected from its consumers in McGehee in excess of such rates from and after September 15, 1941.

We determine and fix the schedule of rates set out below as the reasonable rates to be charged and applied in the city of McGehee. According to our calculations, they will yield more than the \$43,454 which is necessary to cover expenses, taxes, return, and depreciation.

We do not change the industrial nor central heating rate schedules now in effect nor the rate for churches, schools, public buildings, city hall, and jail. The council did not change them. All of them shall continue in effect as they now are, and in our calculations of revenue we have so considered them. The central heating rate is the only rate now filed which is applicable to the City Laundry and Peel Dry Cleaners and we have so calculated the revenue from these customers. Revenue from the McDonald Gin has been calculated on the industrial rate—the only filed rate applicable to it.

The rate which we find should be charged and applied for gas service in residences, individual apartments, or

flats, for cooking, water heating, space heating, refrigeration, and other domestic purposes measured through one meter, and which shall also apply to general commercial establishments not classified as industrial, are:

First	M cu. ft. or less, per month	\$1.50
Next	4 M cu. ft. ....	.75
All over	5 M cu. ft. ....	.50

The company may charge domestic customers outside the city limits an additional 25 cents on the first thousand cubic feet per month. Except for such differential, the above rates shall apply to all customers outside the city limits but served from or as a part of the McGehee distribution plant.

The above rates are high. An important reason for this is the high rate paid at the city gate for gas purchased from the Memphis Natural Gas Company. The volume of gas purchased for use at McGehee could be purchased by a domestic consumer at the domestic rate in Little Rock for less money than the company pays wholesale at McGehee. The Little Rock domestic rate includes the cost of distribution, as well as the cost of production and transportation. The gas for Little Rock and for McGehee comes from approximately the same fields. The distance to McGehee is much shorter. The company is not blameless in this matter. When the McGehee gate rate was fixed there was an affiliation between the two companies. This affiliation, we are informed, has been removed but the company has done nothing about getting a lower gate rate. This is in face of the fact that the Memphis Company carries gas past McGehee to Memphis and there sells it at wholesale for domestic use at a much lower rate. It was the duty of

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the company to protect its consumers in this matter. It has not done so.

We have considered these gate rates in a separate docket and we are now seeking lower gate rates. We shall retain jurisdiction of this case for the purpose of determining whether any reduction we may secure ought not be passed on to the consumers.

It is *ordered* by the Department:

1. That the following rates shall be charged and applied by the Arkansas Power & Light Company for gas sold at McGehee, Arkansas, and to customers outside the city limits but served by such plant, for all billing periods ending on and after twenty days after this date, for gas service in residences, individual apartments or flats, for cooking, water heating, space heating, refrigeration, and other domestic purposes measured through one meter; and also to general commercial establishments not classified as industrial, to wit:

First	M cu. ft. or less, per month	\$1.50
Next	4 M cu. ft. ....	.75
All over	5 M cu. ft. ....	.50

The company may charge domestic consumers outside the city limits an additional 25 cents on the first thousand cubic feet or less, per month.

Schedules embodying this rate will be filed within twenty days.

2. The rates heretofore in effect for industrial and central heating use, and for schools, churches, public buildings, city hall, and jail shall continue in effect.

3. Said rates shall apply to all meter readings made on and after twenty days from the date of this order and the company shall file schedules accordingly.

4. The Arkansas Power & Light Company shall within sixty days from this date prepare and file with this Department and with the city clerk of the city of McGehee, Arkansas, a statement showing, for each customer in McGehee from whom it has collected for gas at rates in excess of those set out above, the name of the person in whose name the meter is listed, the amount collected since September 15, 1941; the amount due under the above rates for gas supplied since September 15, 1941; the difference between such amounts; interest at the rate of 6 per cent per annum upon the amount of such difference down to the date of filing of such statement and the total due such consumer. Immediately upon the filing of such statement, said company shall publish once a week for two weeks in some newspaper published and having a bona fide general circulation in McGehee a notice to the consumers that such statement, showing refunds and interest due, has been filed with the city clerk of such city, and warning all consumers that they should consult said statement and file with this Department in writing within twenty days from the filing of the statement any protest they may have as to the correctness of the refunds there shown due and that in the absence of such protest said statement will be taken as correct.

5. The Department retains jurisdiction of this cause for such further orders as may be necessary as to the settlement of the amount of the refunds and the payment thereof.

6. The Department retains jurisdiction of this case for the further

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purpose of considering, if we secure a gate, whether such reduction should
reduction in the cost of gas at the city not be passed on to the consumers.

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Re Twin City Pipe Line Company et al.

[Docket No. 467.]

Valuation, § 202 — Exhausted gas wells — Field lines.

1. Natural gas wells which have been exhausted have no place in an estimate of the cost of reproduction new, nor do the field lines leading to those wells, as they cannot be considered used or useful now or in the future and they would not be reproduced, p. 93.

Valuation, § 223 — Gas wells not yet drilled.

2. Natural gas wells necessary for the immediate development of proven fields may be left in the rate base, but no wells which the company proposes to drill in areas which have not been proven should be included, p. 93.

Valuation, § 36 — Rate base — Depleting assets — Original cost.

3. Original cost should be used in ascertaining the present value of a rapidly depleting asset, such as a producing gas well, and this is especially true where the Commission must rely greatly on cost of reproduction new in valuing other property, p. 95.

Valuation, § 79 — Reproduction cost estimate — Pipe prices — Quotation.

4. Estimated cost of reproduction new of natural gas pipe lines should be corrected so as to apply discounts on pipe prices although discounts are not supposed to be available during a present emergency, since the general level or plateau of prices which in effect for several years prior and up to the present emergency is a fair basis of estimating the cost of reconstruction of a property actually constructed over a period of years than are present prices, especially where it would probably be impossible to construct the property now because of war priorities restricting the use of materials, p. 95.

Valuation, § 36 — Original cost estimate — Weight.

5. The Commission cannot give as much weight to estimates of original cost as should generally be given to original cost studies, where it is not possible to make a very reliable cost study but the figures show original cost less depreciation, after adjustments for plant acquisition costs and eliminations relating to previously produced gas wells and dry hole expense, with a deduction of the allocable part of reserves, p. 96.

Valuation, § 313 — Working capital — Natural gas companies.

6. A cash working capital allowance for natural gas companies was based on a 30-day allowance for cost of gas purchased from nonaffiliated companies and a 45-day allowance of all other operating expenses, intercompany sales being eliminated, p. 98.

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Valuation, § 332 — Going value — Separate allowance.

7. No separate allowance should be made for going value when reproduction cost (given primary weight in the valuation) includes all overhead costs, and where it is not shown that capital expenditures were incurred to reach the state of a going concern, that such expenditures, if incurred, were not charged to operating expenses, that the company has not been compensated for such expenditures out of past earnings, and that by including such expenditures there would not be a capitalizing of past losses, p. 98.

Valuation, § 30 — Rate base — Original cost — Reproduction cost.

8. Ordinarily it is proper to give great weight to original cost, especially when estimates of reproduction cost are made in times of inflated prices, as inflated costs are not an accurate measure of what the owners have devoted to the public service; but when original cost figures are not as complete and reliable as they should be, a reproduction cost estimate giving substantial weight to depreciation may be a fair and proper measure, p. 99.

Expenses, § 9 — Future estimates — Additional salaries.

9. Allowance should be made, in projecting expenses in a rate case, for additional expense when a company is planning to employ additional help and to pay better salaries, p. 100.

Expenses, § 136 — Natural gas company — Dry hole drilling expense.

10. Allowance for operating expenses of a natural gas company should include an amount for dry hole drilling expense, p. 100.

Depreciation, § 67 — Natural gas — Depletion allowance.

11. Equipment which is part of a natural gas well should be depleted along with the cost of drilling the well, p. 100.

Depreciation, § 16 — Depletion basis — Natural gas wells.

12. The only property which should enter into the depletion base of a natural gas utility is the property which is now used and useful, and wells which formerly produced but are now exhausted should not be considered in arriving at an annual depletion allowance, p. 101.

Depreciation, § 13 — Depletion base — Producing leases and producing gas wells — Original cost.

13. The depletion base for present producing natural gas leases and present producing wells should not be their original cost but should be the balance now remaining and undepleted out of their original cost, p. 101.

Depreciation, § 21 — Annual depletion allowance — Period considered.

14. The depletion unit determined for a natural gas company (related to production) should be applied to estimated production for the next 3-year period rather than the first year only, inasmuch as rates are presumably fixed for more than one year in the future, p. 102.

Return, § 101 — Natural gas company.

15. A return allowance of 6 per cent was made for natural gas companies, p. 103.

Expenses, § 89 — Rate case expense.

16. Allowance should be made for reimbursement to a company for expenses of a rate case, p. 103.

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Expenses, § 92 — Amortization of rate case expense.

17. Amortization of rate case expenses over a period of five years was held to be reasonable, p. 103.

Expenses, § 135 — Cost of purchased gas — Average for 3-year period.

18. The average of the anticipated natural gas purchases for the next three years was used as a basis for determining cost of purchased gas, rather than an estimate for one year only, p. 104.

Depreciation, § 67 — Gas transmission and well lines not depleted — Depreciation rather than depletion.

19. Transmission and well lines of a natural gas company should be depleted, not depreciated, p. 105.

Return, § 101 — Natural gas company — Gas field investment.

20. A return of 6½ per cent was allowed on the investment of a natural gas company in a field where the investment was heavy and there were uncertainties connected with the development, p. 107.

Valuation, § 225 — Contemplated construction.

21. Estimated cost of a pipe line to serve an Army camp was included in the rate base of a natural gas company where it was certain that the company was going to supply a certain amount of gas for the camp and the matter of price was going to be worked out, p. 109.

[December 31, 1941.]

I NVESTIGATION of increased natural gas rates for industrial consumers; increased rates approved as modified.

By the DEPARTMENT: On May 31, 1941, the Twin City Pipe Line Company filed schedules increasing the rates to certain of its industrial consumers in and near Fort Smith, Arkansas—same to go into effect on July 1, 1941. These increases were suspended, and an investigation and hearing were ordered. The new rates were put into effect, under bond, on July 1, 1941.

Prior to these new schedules the general industrial rate was 10 cents per thousand cubic feet, with no differentiation between customers based either on volume consumed or on load factor. The new rates proposed for industrial consumers in general, those with a consumption of less than 365,000 thousand cubic feet per year, was

15 cents per thousand cubic feet for the first 3,000 thousand cubic feet per month, with all excess at 13 cents. If the consumer used more than 365,000 thousand cubic feet per year, it was proposed that rates should be fixed by special contract. In addition to the above, the company filed a special schedule to apply to the Arkansas Smelting Company, which schedule proposed to continue in effect a rate of 9 cents per thousand cubic feet for the first 3,000 thousand cubic feet per day, with all excess at 12 cents per thousand cubic feet. On present consumption this gives an average rate of about 10.2 cents. Another special contract was filed for the Harding Glass Company, proposing to continue in effect a contract to supply gas at 10

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cents per thousand cubic feet with a minimum of 365,000 thousand cubic feet per year.

On November 3, 1941, during the hearing, the company filed additional schedules, which it proposed to put into effect on December 3, 1941, as follows:

A special schedule covering standby service for the generating plant of the Oklahoma Gas and Electric Company. This provides a charge of \$1,000 per year for the first 75 thousand cubic feet or fraction thereof of maximum hourly demand, plus \$25 per thousand cubic feet for each additional thousand cubic feet of maximum hourly demand, plus the regular industrial rate for all gas consumed.

A revised schedule for the Arkansas Smelting Company was filed which provides for a rate of 15 cents each for the first 3,000 thousand cubic feet per month, the next 27,000 thousand cubic feet per month at 13 cents, the next 30,000 thousand cubic feet per month at 12 cents, with 11 cents per thousand cubic feet for the excess; the average price, however, not to be less than 12 cents per thousand cubic feet.

The affected consumers were notified of these proposed schedules. They have been placed temporarily in effect pending this decision.

On November 3, 1941, the Southwestern States Gas Company, which is a member of the same group of companies as the Twin City Pipe Line Company, also filed industrial schedules which we have considered along with the above proposed rates of the Twin City Pipe Line Company. These schedules apply to industries at Barling, Greenwood, Lavaca, and industries outside of towns along the pipe

lines of the Arkansas Oklahoma Gas Company. The proposed rates are the same as the 15 cents—13 cents rate shown in the industrial schedules filed by the Twin City Pipe Line Company on May 31, 1941. This company has also informed us of a proposed agreement with the Army to supply Camp Chaffee with 179,600 thousand cubic feet per year at a flat rate of 18 cents.

The Twin City Pipe Line Company and the Southwestern States Gas Company are two of a group of six companies engaged in producing, transporting, and distributing gas at and near Fort Smith and Van Buren, Arkansas. These six companies are wholly owned by the Southern United Gas Company and will be referred to as the Southern United Group. Two of the companies are producing companies. They are the Industrial Oil and Gas Company and the Ozark Natural Gas Company. The Twin City Pipe Line Company and the Arkansas Oklahoma Gas Company are transportation companies. Nearly all of the gas sold to industries is sold by the Twin City Pipe Line Company. The Southwestern States Gas Company distributes gas to consumers on and near the lines of the Arkansas Oklahoma Gas Company. The Western Oklahoma Gas Company produces and transports a small amount of gas for use at Fort Smith. It has some other operations in Oklahoma which are physically separated from its Fort Smith operations. This company is also that one of the group which is developing a new field near Spiro, Oklahoma, for the purpose of furnishing Fort Smith with additional gas.

The gas which is distributed in Fort Smith proper is distributed by the Fort

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Smith Gas Company which is not an affiliate. It purchases most of its gas from the Twin City Pipe Line Company. It has an affiliate which produces a small amount of gas. The Fort Smith Gas Company and its affiliate do not enter into this case except in so far as we consider the fairness of the wholesale prices charged to that company.

Findings As to Value

We consider first the five companies of the Southern United Group other than the Southwestern States Gas Company, which will be considered separately later on. The new development in the Spiro field and the pipe line bringing gas from it to Fort Smith will also be considered separately.

Aside from working capital, materials and supplies, and the company's claim for a separate allowance for going value, there is one serious difference between the engineers in the final results of their estimates of the cost of reproduction new less accrued depreciation. The company's estimate is \$1,985,625. The Department's engineers on one basis of depreciation arrived at \$1,660,047 and on another basis arrived at \$1,783,873. Both of these are subject to adjustments noted later on.

The company included in the property which it was reconstructing a considerable number of wells which had been exhausted and field lines leading therefrom, where such field lines had not been removed from the ground. It also included a number of wells yet to be drilled which were not in proven areas,—that is, it included in the rate base certain wild cat wells which it proposed to drill. All

of these were eliminated by the engineers for the Department and the total amount thus eliminated from the company's estimate of the cost of reproduction new less depreciation is \$203,186.38, leaving a balance of \$1,782,439.

[1, 2] Wells which have been exhausted have no place in an estimate of the cost of reproduction new nor do the field lines leading to those wells. They cannot be considered as used or useful now or in the future. They would not be reproduced. Ordinarily, wells not yet drilled ought not be included in an estimate of present value. There remain in the estimate, however, a number of wells to be drilled prior to July 1, 1942. A large part of these wells have been drilled since the date of the appraisal, and others are now being drilled. All such wells as are left in the appraisal are necessary for the immediate development of the proven fields. The gas to be supplied from these wells is necessary for the supply of gas at Fort Smith this winter. The revenues from the projected sale of this gas are included in the estimates of revenues. No wells which the company proposes to drill in areas which have not been proven are included in the rate base.

The company's method of ascertaining accrued depletion on its wells was to consider all of the gas reserves of each producing company as a separate unit. If the reserves of one company were 75 per cent exhausted, then the present condition of the production property was placed at 25 per cent of the estimated cost of reproduction new. The company did not include in the property depleted on this basis the field lines. These were depreciated by the

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company along with the transmission lines. The engineers for the Department considered each field and each sand as a separate unit and depleted the production property of that particular field or sand in proportion to the exhaustion of the recoverable reserves. They handled the field lines in a manner different from that used by the company's engineers.

The company depreciated its transmission lines on the basis of information gained by sample inspections of the lines. At each test hole opened up, about 4 feet of pipe was exposed and the company divided the pipe so uncovered either into two 18-inch sections or into two 2-foot sections. It then ascertained the three deepest pits in each section, averaged the three pits in each section, and then averaged the average pit depths so obtained and considered the result the deepest pit on the basis of which they ascertained the present condition of the pipe. No account was taken of the improbability of discovering the deepest pits in a 20-foot length of pipe by means of such inspections. The engineers for the Department made the same inspections as did those for the company but they ascertained the ten deepest pits in the 18-inch or 2-foot sections of pipe and then projected the results so obtained, according to formulae developed and published by the National Bureau of Standards, for the purpose of ascertaining the probable average of the ten deepest pits in the 20-foot length of pipe. This was applied against the original wall thickness for obtaining the present observed condition of the pipe.

The cost of reproduction new less depreciation on basis 1, as estimated by 42 PUR(NS)

the Department's engineers, consisted of ascertaining the present observed condition of the pipe according to the above method, and the depleted condition of the production property according to the method described above. On this basis the engineers included in the production property the field lines leading from the wells to the transmission lines on the theory that when production ceased these lines would have only a salvage value. Such lines were therefore depleted along with the wells.

On basis 2, the engineers for the Department used the same methods for ascertaining the present condition of the production property, but they did not deplete the field lines along with the wells. Instead, they depreciated the field lines on the straight-line method at the rate of 2 per cent per annum for the length of time the field lines had been in the ground. Neither set of engineers measured any pits on the field lines leading directly from the wells. There were a few inspections on lines leading from a particular field to the main transmission line. The results of these inspections, however, were not used by the engineers for the Department, the annual depreciation rate of 2 per cent used by them for field lines on basis 2 being based on estimated life, less salvage value. In addition to this, in arriving at basis 2, the engineers for the Department, instead of using the observed present condition of the transmission lines, took into consideration the fact that pitting progresses more rapidly during the first few years that the pipe is in the ground. Using the results obtained by measuring the pits, they used formulae, developed and published by

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the National Bureau of Standards, to ascertain the probable unexpired service life of the lines. On the basis of this service life they arrived at a higher per cent of present condition than on basis 1, which simply estimated present condition on the relation between the pit depth and the original thickness of the pipe wall.

The cost of reproduction new less depreciation as estimated by the company, after deducting the eliminations above described, is \$1,782,439. On basis 1 the engineers for the Department arrived at a figure of \$1,660,047. On basis 2 they arrived at \$1,783,873. These results must be adjusted to account for certain matters mentioned below.

[3] In Department's Exhibit 1, page 17, is shown the actual cost of all the present producing wells, and the original cost less depletion figured on the same bases that were used in basis 1 and basis 2 hereinbefore described. If we substitute the depleted original cost of the producing wells for the depleted estimated cost of reproduction new, a total of \$39,950 should be deducted from the totals above shown, leaving a present depleted and depreciated cost on basis 1 of \$1,620,097, and on basis 2 of \$1,743,923. Original cost should be used in ascertaining the present value of a rapidly depleting asset. This is especially true here where we must rely so greatly on cost of reproduction new in valuing the other property.

[4] This estimated cost of reproduction new should be further corrected on account of pipe prices. The prices used were those quoted at the present time. The quoted price for pipe has not changed materially since

July 1, 1938. Up to the present emergency, however, certain discounts on the quoted prices were available. Some of these discounts are not supposed to be available at the present time,—at least, they are not quoted to people asking for prices for estimating purposes. These discounts should be applied in estimating the cost of reproduction new. The general level, or plateau, of prices which was in effect for several years prior and up to the present emergency is a fairer basis of estimating the cost of reconstruction of a property which was actually constructed over a period of years beginning about 1916, than are the prices prevailing during the present emergency. It would probably be impossible to construct the property now, because, unless priorities can be obtained, the pipe cannot be purchased. Priorities cannot be obtained for the construction of such a utility project as this. It is unfair to base rates on the estimated cost of now reconstructing property which cannot now be reconstructed. Earlier in this year, before the emergency became acute, this group of companies did purchase some pipe for use in the Spiro extension, hereinafter described, and did obtain a part of these discounts. As regards the Spiro property, the value found is what it cost. With reference to the rest of the property, the company has not considered any discounts from quoted prices. The discounts which were available for quantity purchases from 1938 up to the time of the present emergency should be considered. The evidence showed that the cost of reproduction new would be reduced \$46,795 by the use of these discounts. When this is depreciated on basis 1, along with the

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pipe, it would reduce the cost of reproduction new less depreciation in the sum of \$33,396,—or reduce it from the \$1,620,097 last stated above, to \$1,586,701. The cost of reproduction new less depreciation on basis 2, would be reduced in the amount of \$38,936,—or from the \$1,743,923 last stated above to \$1,704,987.

These adjustments are especially necessary here, because we are obliged to rely more than is proper on estimated cost of reproduction new in arriving at a rate base. Such an estimate should be more in accord with the costs of construction which prevailed prior to the present emergency than with the present emergency costs.

Original Cost

[5] The record contains evidence from which an estimate of the depleted and depreciated original cost of the 5-company group may be made. For three of the companies, that is, the Industrial Oil and Gas Company, the Western Oklahoma Gas Company, and the Ozark Natural Gas Company, the accountants for the Department were able to make original cost studies of their own which can be reconciled with the studies submitted by the company. They were not able to make studies of their own for the Twin City Pipe Line Company and the Arkansas Oklahoma Gas Company, but studies with reference to these two companies have been prepared and submitted by the company, and show evidence of having been as carefully done as was possible under the circumstances.

The depleted and depreciated original cost of the properties of the 5-42 PUR(NS)

company group indicated by these studies is \$1,377,331.79.

A statement showing how the original cost of one of the companies was handled will be a sufficient description to indicate how this result is arrived at. In the case of the Industrial Oil and Gas Company, the total book cost now indicated by the books of the company is \$1,419,190.41. Of this, the sum of \$709,363.90 is the original cost of the property at the time it was devoted to the public service. The sum of \$709,826.51 is what the accountants refer to as "plant acquisition costs," meaning by that the excess which the present, or some predecessor, company paid for the property over and above the actual cost to the original owner who first devoted it to the public service.

Included in the balance now on the books are the costs of certain previously produced wells and the cost of drilling certain dry holes. To these a proportionate part of the plant acquisition costs has been attributed as shown by the books of the company. When the original cost of these previously produced wells and dry holes, together with their proportionate part of the plant acquisition costs, are eliminated, we have a remaining balance of original cost of property now used and useful amounting to \$451,112.18 and a remaining balance of plant acquisition costs allocable thereto of \$507,941.92. 47.04 per cent of the total is actual original cost and 52.96 per cent is plant acquisition cost.

The reserve for depreciation and depletion shown on the company's books as of December 31, 1940, is \$964,199.23. From this there should be deducted the original cost of, and

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the plant acquisition costs attributable to, previously produced wells and dry holes, a total of \$460,136.31, leaving a balance in this reserve account of \$504,062.92. Of this sum 47.04 per cent should be allocated to actual original cost in the sum of \$237,111.20, and 52.96 per cent should be allocated to plant acquisition costs in the sum of \$266,951.72. When these are deducted from the original book costs, after eliminations, as shown above, it leaves a balance of \$214,000.98 as the balance of the original cost, after elimination of previously produced wells and dry holes and after deducting the proper part of the reserve. The remaining balance of the plant acquisition costs allocable to the property now used is \$240,990.20.

The actual balance now remaining on the books of this company, purporting to be the cost of its properties, after eliminations and deductions of the reserves, is \$454,991.18, of which only \$214,000.98 represents the remaining undepreciated actual original cost of the property now used and useful.

The other companies of the 5-company group have been considered in the same way, and in this manner the depreciated original cost of the properties of these five companies is estimated to be \$1,377,331.79.

With reference to the deductions of dry holes from the balance remaining in the reserve, it appears from the record that the annual accruals for depletion have been arrived at on a basis which includes the cost of drilling these dry holes in the amount to be depleted.

These original cost figures must be used with caution. For example, only a part of the properties of the Western

Oklahoma Gas Company are involved in this case. They are the properties around Greenwood Junction. The books of the company do not show separately the reserves for these properties. They are lumped with the reserves for another property of this company located in what is known as the Roland area. For purposes of this original cost study these reserves have been allocated between the properties in the Greenwood Junction area and those in the Roland area, in proportion to their original cost, which in this case is the same as the cost shown on the books. The Arkansas Oklahoma Gas Company also has properties which are not involved in this Fort Smith Case. Likewise, the reserves on this company's books are not shown separately for the separate properties and for purposes of this original cost study the total reserves carried on the company's books have been divided between the property of the company in Arkansas, involved in this case, and the properties in Oklahoma which are not involved in this case, in proportion to the book cost of the properties. Furthermore, the original cost studies of the Industrial Oil and Gas Company, the Western Oklahoma Gas Company, and the Ozark Natural Gas Company, and the reserves considered are all as of December 31, 1940; while in the case of the Twin City Pipe Line Company the calculations were made upon the basis of the original cost study submitted by the company, showing its investment as of May 31, 1941, and the reserves considered were those shown on the books of the company as of December 31, 1940. In the case of the Arkansas Oklahoma Gas Company, the original cost considered was

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that shown in the studies submitted by the company showing its investment as of June 30, 1941. In this case, also, the reserves considered were those carried on the books of the company as of December 31, 1940.

The amount of plant acquisition costs remaining after the elimination of the part attributable to previously produced wells and to dry hole expense, and after deducting the allocable part of the reserves, is \$499,938.27. If we add this sum to the corrected depreciated original cost of \$1,377,331.79, we have for the property now used and useful, a total depreciated corrected book cost, including plant acquisition costs, of \$1,877,270.06.

We cannot give as much weight, in finding value, to these estimates of original cost as should generally be given to original cost studies. Our accountants have stated that, because of the condition of the records, it is not possible to make a very reliable cost study within the limits of available time and cost.

Working Capital

[6] For the six companies of the Southern United Group, the company claimed an allowance for cash working capital in the total sum of \$37,235, of which \$1,024 is claimed for the Southwestern States Gas Company, leaving a balance of \$36,211 claimed for the other five companies. This claim was based on a 6/52 of a year's operating expenses, including intercompany sales of gas based on an average of five years' experience.

The accountants for the Department testified that, for the 6-company group, an allowance of \$20,401.44 would be sufficient for cash working capital.

This was based on a 30-day allowance for the cost of purchased gas from nonaffiliated companies and a 45-day allowance of all other operating expenses. All intercompany sales were eliminated. Of this sum, the amount of \$440.32 is attributable to the Southwestern States Gas Company, leaving a balance of \$19,961.12 as the cash working capital of the other five companies of the Southern United Group. This is sufficient.

Materials and Supplies

The testimony of the company indicated that the materials and supplies on hand amounted to \$42,119. The engineers for the Department testified that an allowance for materials and supplies in this amount would be reasonable. Of this \$479 was for the Southwestern States Gas Company, leaving \$41,640 for the other five companies.

Going Value

[7] The company claims that there should be a separate allowance for going concern value in the total sum of \$80,000, of which \$5,000 was claimed for the Southwestern States Gas Company, leaving a balance of \$75,000 claimed for the other five companies in the Southern United Group.

There was no evidence that any cost had ever been incurred by the company on which such a claim could be based. These companies have grown up piecemeal from small beginnings about 1916.

In the cost of reproduction new there is included all of the overhead cost of assembling the different items of property and of putting them together into a going concern, devoted to the use for

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which the property has been assembled and put together. If a separate allowance for going concern value is made, this would include in the rate base property which is not shown to exist and an investment which the company is not shown by the record to have made. The rate base should be the fair value of what the owners have devoted to the public service. No property and no investment should be included which the owners did not devote to such service. Before a separate item for going value can be added, the actual history of the company must show that there were outlays in the nature of capital expenditures, like general construction overheads, incurred to reach the state of a going concern, and the proof must show that such expenditures were not operating expenses and that the company has not been already compensated for the same out of past earnings, and must also show that in including such expenditures there would not be a capitalizing of past losses or past charges which should have been properly included in operating expenses. No such conclusions can be drawn from this record.

Conclusions As to Value

When we add the above allowances of \$19,961 for cash working capital, and \$41,640 for materials and supplies to the cost of reproduction new and original cost, less depreciation, we arrive at the following results:

On basis 1, the depreciated cost of reproduction new is \$1,648,302.

On basis 2, the cost of reproduction new less depreciation is \$1,766,588.

The depreciated and depleted original cost is \$1,438,933.

[8] Ordinarily, it is proper to give

great weight to original cost. This is especially true where, as now, estimates of the cost of reproduction new are made in times of inflated prices. The record indicates, however, that the original cost figures in this case are not as complete and reliable as they should be for this purpose. On the other hand, the estimated costs of reproduction new do include the effect of present labor prices. They reflect the costs resulting from the Wage and Hour Law, and other increased labor costs. This property has been built over a long period of years and it is not fair to the ratepayers to give too much weight to present inflated costs, even when reasonably estimated. Such costs are not a very accurate measure of what the owners have devoted to the public service.

In estimating accrued depreciation it is fair, as a general rule, to use the service life principle, the use of which is reflected in basis 2, which we have hereinbefore described. In this case, however, because the estimates of cost of reproduction new do reflect present inflated labor prices, and in order to make due allowance for this, we think that giving greater weight to depreciation basis 1 will arrive more nearly at what is the fair and proper measure of the return, to which the owners are entitled and which the consumers must pay, for the use of the property devoted to the public service.

Considering all the facts before us, including the fact that the items of property making up the plant are a going concern operating with business attached, in the manner and for the purpose for which the property was installed; and giving to the current level of prices the full effect to which we

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find they are entitled, and allowing for any intangible elements of value, and for all costs of attaching business, in so far as same are shown to have been incurred and accounted for, we find that the fair value as of June 1, 1941, to be used as the measure of the return for the use of the property of the five companies, including materials and supplies and working capital, devoted by the owners to the service of gas in the Fort Smith area, is the sum of \$1,675,000.

Expenses

[9] We first consider the general operating expenses of the five companies, not including the cost of purchased gas, dry hole drilling expense, amortization of nonproducing lease costs, depletion or depreciation, or income taxes. The projections of these expenses, introduced by the company, amounts to \$148,733. This figure includes \$3,000 a year for rate case expense which will be considered separately. After eliminating this \$3,000 there remains \$145,733. The estimates put in by the staff of the Department amount to \$142,359. The difference between these two estimates is due principally to the fact that the company is planning to employ additional help in their general offices and to pay better salaries. From the facts before us this is a proper move. The expense of this is not reflected in the estimates of the Department's staff. We adopt the projected expenses as introduced by the company covering the items above in the amount of \$145,733.

[10] To this there must be added an amount for dry hole drilling expense. The company's estimate of

this amount was \$35,450. The estimate made by the engineers for the Department was \$30,834. This latter figure was arrived at by taking the experience of the company for the past five years, which amounted to \$24,667 per year, and adding 25 per cent thereto to take care of the increased drilling costs of the present time, due to higher drilling expenses and to the fact that the wells to be drilled will probably be drilled to a greater depth than in the past. The average experience of the company from 1916 to date reflects an annual expense of \$12,014 for dry holes. The average for the last ten years in \$14,559. For this item, the sum of \$30,834 is a proper allowance.

The annual expenses for the amortization of nonproducing lease costs is \$3,197, that being the amount claimed by the company and accepted as correct.

Certain adjustments and corrections are necessary in order to compare the claim of the company for the depletion allowance necessary to reimburse it for the consumption of its production property with the allowance which is found to be proper.

[11] The company claimed a depletion allowance on the cost of constructing its wells only. It did not claim that the well equipment should be depleted but claimed that it should be depreciated along with the transmission pipes and other similar property. The equipment, which is a part of the well, should be depleted along with the cost of drilling the well.

The company's estimate of the annual depletion charge necessary to reimburse it for the cost of drilling its wells was arrived at by taking the re-

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maining cost of reproduction, after deducting accrued depletion or depreciation, and dividing this remaining cost by the remaining recoverable reserves and so arriving at a depletion unit per thousand cubic feet. After this unit was determined, the estimated production for one year was applied and the annual charge determined.

[12] The property which the company proposed to deplete and depreciate on this basis included the reproduction cost not only of the present producing wells but also of wells which had been previously produced and exhausted. The only property which should enter into the depletion base is the property which is now used and useful. Wells which formerly produced, but are now exhausted should not be considered in arriving at an annual depletion allowance.

On the above-described basis the company arrived at a total annual charge of \$87,671 for depletion of wells and depreciation of equipment, divided between the three producing companies as follows:

COMPANY			
<i>Ind. O. & G. Co.</i>			
Depletion	921,000	M cu. ft. @ 0.009052¢ (Well Const.)	\$8,337
Depreciation	921,000	M cu. ft. @ 0.002538¢ (Well Equip.)	2,337
<i>Ozark Nat. Gas Co.</i>			
Depletion	1,990,900	M cu. ft. @ 0.029206¢ (Well Const.)	58,146
Depreciation	1,990,900	M cu. ft. @ 0.007847¢ (Well Equip.)	15,623
<i>Western Okla. Gas Co.</i>			
Depletion	68,500	M cu. ft. @ 0.03217¢ (Well Const.)	2,204
Depreciation	68,500	M cu. ft. @ 0.01495¢ (Well Equip.)	1,024
Total	2,980,400	M cu. ft. @ 2.94158¢	\$87,671

Of the above total the sum of \$68,687 was claimed as depletion and the sum of \$18,984 was included in the company's claim for a depreciation allowance which is discussed herein after.

The exhibit prepared by the engineers for the Department indicates

that the proper allowance for depletion would be \$71,171. There is an obvious error in this conclusion which can be seen from a calculation based on the data underlying it. The property to be depleted consists of the producing leaseholds which had an original cost of \$37,117, the well construction and well equipment combined, which had an original cost of \$865,419, and the wells to be drilled immediately in proven producing areas at an estimated cost of \$144,019. The total of these original costs is \$1,046,555.

The estimated total remaining recoverable reserves from this property amount to 25,619,000 thousand cubic feet. The gas already produced from this property amounts to 55,909,619 thousand cubic feet. The total original reserve, therefore, under the property which we are depleting, amounted to 81,528,619 thousand cubic feet.

[13] The depletion base for the present producing leases and present producing wells should not be their original cost but should be the balance now remaining and undepleted out of

their original cost. From Department Exhibit 1, page 7, we find that the depleted original cost of the producing leases is \$12,152, and from page 17 of the same exhibit we find that the depleted original cost of the wells and well equipment is \$334,752.

To this there should be added \$144,-

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019, the estimated cost of the wells to be drilled immediately in producing areas. This gives a total of \$490,923 to be now depleted. The remaining recoverable reserves under this property amount to 25,619,000 thousand cubic feet which gives a depletion unit per thousand cubic feet of production of 1.9162457 cents.

[14] There is a difference between the Department's engineers and those of the company as to the estimated annual production to which the proper depletion unit should be applied. The company took the estimated annual production for the first year only, amounting to 2,980,400 thousand cubic feet. The Department's engineers agreed that this was the estimated production for the first year but contended that the average production for the next three years should be the amount which should be used. Inasmuch as rates are presumably fixed for more than one year in the future, it is proper to use the average estimated production for the next three years, which, according to the estimates of the Department's engineers, will be an average of 2,658,800 thousand cubic feet per year. Applying the depletion unit to this estimated production indicates an annual allowance of \$50,949 for the depletion of the producing leases, wells, and well equipment of the three companies.

The company pointed out that, although a depletion unit of 1.9162 cents per thousand cubic feet might be correct for the properties as a whole, and spread over their whole life, it does not correctly reflect the cost of the present production—that production in the next three years must be from properties which are entitled to a high-

er depletion unit than the average over the life of all the properties. The depletion unit for the property of the Ozark Company should be 3.209 cents per thousand cubic feet, for that of the Industrial Company should be .7336 cents, and for that of the Western Company should be 2.078 cents. The projected production during the next three years from the properties of the three companies amounts to 1,930,300 thousand cubic feet for the Ozark, 666,333 thousand cubic feet for the Industrial, and 62,170 thousand cubic feet for the Western. Applying the depletion units of the three companies to their projected production for the next three years results in an annual amount required for depletion of \$68,123. This will be the proper annual allowance for depletion for the next three years. The use of this amount will result in a lower total annual depletion allowance when the amount of production from the Ozark Company declines and the proportion of the production from the Industrial Company increases with reference to total production.

The company claimed an annual allowance for the depreciation of its property of \$59,044. Included in this, as stated above, was the sum of \$18,984 which covered the claimed annual depreciation on well equipment which, as we have found above, should be depleted along with the wells. This leaves \$40,060 as the company's claim for an annual depreciation allowance. The Department's engineers recommended an annual allowance for the depreciation on this same property of \$33,690.

The difference between the two estimates is due mainly to the fact that

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the company simply claimed an over-all percentage to apply to the depreciable property of each company, whereas, the Department's engineers recommended a rate for each class and kind of property, based on its expected service life after giving consideration to salvage. The percentages claimed by the company are judgment figures, not based on a detailed consideration of the various classes of property or the observed condition of the property or the expected life of the property. The amounts recommended by the Department's engineers are based principally upon the best available estimates of the service life of the various units of property after giving consideration to salvage. The processes behind this estimate were described in connection with the accrued depreciation. Each class of property was separately considered and the proper annual rate applied thereto. The estimate originally submitted by the engineers for the Department was for an annual allowance of \$32,106. During the trial they testified that this did not include an allowance for the loss in value of transmission land rights. It was further evident that the \$32,106 did not include any allowance on the depreciable property of the Industrial Oil and Gas Company and the Ozark Natural Gas Company. The engineers' recommendations, made at the hearing, in order to take care of these items resulted in increasing the annual allowance recommended by them from \$32,106 to \$33,690. In order to be certain that these omitted items have been fully cared for we find that the annual allowance recommended by the engineers for the Department should be increased to \$36,000 per annum for

the annual depreciation charges on the property of these five companies.

The annual expenses allowed for the five companies, not including return and income taxes, are as follows:

Projected operating expenses	\$145,733
Dry hole drilling expenses	30,834
Amortization of nonproducing lease costs	3,197
Depletion	68,123
Depreciation	36,000
Total	\$283,887

[15-17] To the above expenses there must be added an amount to pay the owners of the property for the use of their property. We find that a fair and reasonable rate of return on the value of the property now devoted by these five companies to the public service is 6 per cent per annum. The rate base to which this rate of return should be applied is \$1,675,000 and the amount of the annual return is \$100,500. When this is added to the expenses shown above it indicates that the total which these five companies must receive outside of the cost of gas and income taxes is \$384,387. To this there must be added an amount to reimburse the company for the expenses of this rate case. The company claimed that the total expense of this rate case would amount to at least \$15,000 and that it should be amortized over a period of five years, resulting in an annual charge against expenses of \$3,000. The total amount of the expenses of this rate case have not yet been ascertained but from the evidence before us we are satisfied that they will amount to at least \$15,000. The proposal to amortize them over a period of five years is a reasonable one and that the amount of \$3,000 per year

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should be added to the total expenses shown above for the period of the next five years. When these are added the total is \$387,387.

Cost of Purchased Gas

[18] In addition to producing all the gas which it can produce, the company purchases from the Cazort Estate and from the LeFlore County Gas and Electric Company all of the gas which they are able to supply to it. The company's estimate of its annual purchases from the Cazort Estate is 184,000 thousand cubic feet. This is a one-year estimate only. The Department's engineers' estimate for the annual purchases is the average of the gas which can be purchased from this estate during the next three years, which is 165,333 thousand cubic feet. The average of the anticipated purchases for the next three years is the one which should be used. The company's estimate of its purchases from the LeFlore County Gas and Electric Company is 906,108 thousand cubic feet, when reduced to a 2-pound pressure base, the same as is used for the other gas considered herein. This also is an estimate for the next year only. The Department's engineers have used an average of the estimated purchases for the next three years which, on the same basis, is 735,369 thousand cubic feet. Mr. Orr of the LeFlore County Gas and Electric Company testified in the case that the contract under which the system is now purchasing gas from his company expires shortly and while he testified that his company would continue to supply as much gas to the system as it possibly could, he made it clear that the reserves of this company are being exhausted,

and it is extremely doubtful that it will be able to continue to supply as much gas in the future as it has been able to supply in the past. This fact has been given due effect in estimating the amounts of gas which the system must secure from its new Spiro field, and, as will be seen, the gas from the Spiro field is much more expensive than the gas purchased from the LeFlore Company. The purchase price of the LeFlore Company's gas is between 9 cents and 10 cents per thousand cubic feet, dependent upon the amount of industrial gas sold by the system at a price in excess of 10 cents.

The cost of the gas purchased from the Cazort Estate is \$7,440 per annum. There was a disagreement in the testimony as to the price paid for the gas purchased from the LeFlore County Gas and Electric Company. We use the price used by the company in its projection and the cost of this gas, using this price, is \$72,426. The total cost of purchased gas is, therefore, \$79,866. When this is added to the amounts above included it shows a total expense, exclusive of income taxes, and of the cost of gas from the Spiro field, of \$467,253.

The total volume of gas produced and of the gas purchased from the Cazort Estate and the LeFlore County Gas and Electric Company is 3,559,502 thousand cubic feet. The projected annual requirements, on the same basis of two pounds above atmosphere, are 4,668,468 thousand cubic feet, indicating an average annual deficiency to be made up from gas to be produced in the new Spiro field of 1,108,966 thousand cubic feet.

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Estimates of the company as to annual requirements of gas and the estimates submitted by the engineers for the Department are different. This difference arises almost entirely from the fact that the company projects its requirements only for one year, that is, the year ending June 30, 1942, whereas, the engineers for the Department projected the requirements for the next three years. For the year ending June 30, 1942, the estimates are almost identical. But, gas will be supplied to Camp Chaffee only during a part of the year ending June 30, 1942. For the next two years the full requirements for that camp must be met and this results in raising the average requirements for the three years above requirements projected by the company for the year ending June 30, 1942. The projection by the Department's engineers for the requirements that must be met from the Spiro field for the succeeding two years are also affected by the estimated decline in production from the fields owned by the 5-company group and in the amount of gas which can be purchased from the Cazort Estate and the Le-Flore County Gas and Electric Company. There was no evidence introduced in conflict with the estimate made as to such decline in production and purchases. The average for the next three years is the better basis for fixing rates, and consequently, we adopt the figure recommended by the engineers for the Department for the average requirements for the next three years from the Spiro field, the amount being 1,108,966 thousand cubic feet. This is on the field pressure basis of atmosphere plus 2 pounds.

Spiro Field Operations

The cost of this gas delivered to the Twin City Company is treated as an expense of the 5-company group. We must determine the value, return, and expenses of the Spiro production and transmission operations.

The company's estimate of the value of its transmission property for the Spiro field is made up for one year only and amounts to \$197,195. This includes the transmission line itself and the well lines which will be in use prior to June 30, 1942. The Department's engineers estimated the value of the same property at \$238,490. The difference seems to lie in the fact that the company omitted from its estimate all overhead costs of construction.

[19] The average value of the investment in transmission line and well lines over the 3-year period, as estimated by the Department's engineers, is \$214,699. This was arrived at by considering the additional well lines which will have to be constructed during the second and third years, and also by depleting the investment in transmission and well lines in accordance with the using up of the reserves which can be served by these lines. These lines should be depleted—not depreciated. The total investment in transmission property over the life of the reserve is estimated to be \$254,458. The estimated salvage value is \$50,988, leaving an investment of \$203,470 in transmission property which must be depleted over the life of the reserve. The estimated remaining reserve in the Spiro field is 13,361,089 thousand cubic feet which indicates that the depletion charge for each thousand cubic feet produced should be

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1.523 cents. By applying this charge to the production during the next three years and so depleting the investment and also by giving effect to the additional investment that must be made in each of the next three years, the Department's engineers arrived at a figure of \$214,699 as the average undepleted investment during each of the next three years.

The average annual production for the next three years is estimated to be 1,108,966 thousand cubic feet. Applying the depletion charge above found shows that the average annual charge against expenses for the depletion of the transmission property is \$16,888.

Leases and gas rights cost the company \$34,000. The original reserves under these leases are estimated to have been 13,750,000 thousand cubic feet. The depletion charge to reimburse the company for these costs as the reserves are used up is .247 cents. When this is applied to the estimated annual production it indicates an annual charge of \$3,063 for the depletion of leases and gas rights.

When this annual charge is deducted from the original cost of the leases it indicates that the average undepleted investment over the 3-year period in leases and gas rights is \$28,311, on which a return must be allowed.

The company claims an investment for the year ending June 30, 1942, in its wells and well equipment of \$339,487. For purposes of comparison there should be added to this the cost of one dry hole which the company has eliminated and charged to expenses. This would give a total of \$378,162.

The Department's engineers esti-

mated that the investment in wells during the first year would be \$351,532. This difference for the first year is due to the fact that the company anticipated that one more well would be drilled than was anticipated by the engineers for the Department, together with a different treatment of the cost of the discovery well, the Frazier well, which difference is immaterial here.

The Department's engineers estimate that the average investment in wells during the next three years would be \$360,278. This was arrived at by considering the wells that would have to be drilled in each of the next three years and adding their cost to the amount invested in wells and deducting therefrom each year the depletion of well costs in accordance with the amount produced. It is estimated that all of the wells and equipment necessary to develop this field would cost \$1,207,786, and that the total original reserves under this field were 13,750,000 thousand cubic feet, which would result in a depletion unit for each thousand cubic feet of gas produced of 8.78 cents. With an average production during the next three years of 1,108,966 thousand cubic feet the average charge for depletion during the 3-year period would be \$97,410.

The operating expenses estimated by the company for the next year only for the operation of the Spiro field amount to \$17,539. The average for the 3-year period estimated by the engineers for the Department is \$18,834. Most of this difference comes in the estimate of labor costs. The company, prior to the hearing, had only a part-time man supervising the produc-

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tion in the Spiro field, but it will be and now is necessary to have a full time man on the job as soon as the field is more fully developed. An additional difference is due to the fact that more gas will be produced from this field in the next three years than is now being produced and that the expenses for royalties will be higher. Further, in making its estimate for the year ending June 30, 1942, the company included only a part of the year, as was proper, whereas, a full year's expenses must be included for the next two years if we are to take the 3-year period average. On the basis of operations for the first year only, the estimate of the Department's engineers was lower than that of the company.

The expenses included in the \$18,834 total include royalties, as above stated and also include ad valorem and general taxes but do not include income taxes.

[20] Because of the heavy investment and uncertainties connected with the development of the Spiro field it is our opinion that a rate of return of 6½ per cent should be allowed on the investment in this property. The total investment on which this return will be allowed, based on the average for three years, as above stated, and including \$360,278 for wells, \$214,699 for transmission and field lines, and \$28,311 for leases and gas rights, is \$603,288. The rate base requested by the company for the year ending June 30, 1942, only, was \$577,810. A return of 6½ per cent on \$603,288 is \$39,214.

The total amounts thus necessary, not including income taxes, to pay all of the cost of operating the Spiro field and producing gas therefrom and

transmitting the gas to the pipe lines of the Twin City Pipe Line Company, including operating expenses, depletion and return are as follows:

Operating expenses	\$18,834
Average depletion on wells	97,410
Average depletion on transmission lines	16,888
Average depletion on leases & gas rights	3,063
Return	39,214
Total	\$175,409

When this is divided by the average amount of gas to be produced during the next three years, 1,108,966 thousand cubic feet, the cost per thousand cubic feet of gas delivered to the Twin City Pipe Line Company is 15.817 cents. This is a very high cost. We do not believe the company should again get involved in such an expensive development without exploring fully with this Department the costs of otherwise securing a permanent supply of gas.

No evidence was introduced about cash working capital or materials and supplies for the operation of the Spiro field. A 30-day allowance for the operating expenses would be \$1,548. The company did contend at the hearing that in the fixing of cash working capital some consideration should be given to the fact that the company is now engaged in a development operation. This has been considered in the allowance of general overheads, which includes interest during construction, in the estimates of the Department's engineers. The company omitted all of these general overheads in its own estimates. We think that an allowance of \$2,500 should be ample to cover the cash working capital and materials and supplies necessary for the Spiro operations. A return of 6½ per

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cent on this is \$162.50. When this is added to the \$175,409, the total above arrived at, we find that the total cost of the Spiro gas delivered to the Twin City Pipe Line Company is \$175,571.50. This is an average for the next three years.

We have previously found that the total amount of the expenses, depreciation, and return of the 5-company group, including all cost of gas except that from the Spiro field, is \$467,253. When the cost of gas from the Spiro field is added to this amount it gives a total which must be provided for this 5-company group, exclusive of income taxes, of \$642,825.

To the above total of \$642,825 an amount must be added for state and Federal income taxes. The accountants for the Department have calculated that these taxes should be \$38,741. This calculation was made on the following basis: The \$100,500 return to which the 5-company group is entitled was divided between the five companies in proportion to their estimated cost of reproduction new less depreciation, as shown on basis 2 submitted by the engineers for the Department, after these costs had been corrected by eliminating the discounts on pipe prices which we think are proper, and after the original costs of wells had been submitted for the estimated cost of reproducing them. In this manner an amount of net income before interest was arrived at for each of the companies. The return for the Spiro development has been separately arrived at and this has been included. From this net income before interest there was deducted the annual interest actually due on the outstanding notes of the different com-

panies, as of December 31, 1940. In the case of the Spiro development it was presumed that 50 per cent of the investment was represented by bonds bearing interest at the rate of $3\frac{1}{2}$ per cent, and the interest so arrived at was also deducted. This left a net income for each of the companies after interest on which state and Federal income taxes were calculated, and in this manner the total of \$38,741 was arrived at. This does not include anything for excess profits taxes. There is no evidence in the record from which an estimate of the amount of any possible excess profits taxes can be arrived at. When this is added to the \$642,825 previously shown, we arrive at a total of \$681,566 as the total amount of expenses, depreciation, and return which represents the cost of supplying gas in the Fort Smith and Van Buren areas by the five companies in the group.

Southwestern States Gas Company

It is next necessary to consider the value and expenses of the Southwestern States Gas Company. This is a small affiliated company that serves gas to various towns and rural customers on the lines of the Arkansas Oklahoma Gas Company.

The company's estimate of the cost of reproduction new less depreciation of its property in Arkansas is \$52,440. The engineers for the Department took no exception to this estimate. The pipe involved is all small pipe on which the discounts discussed in connection with the larger pipe are not applicable.

The company's report as to the original cost of its Arkansas properties shows a total of \$50,764. Of this

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amount, however, \$10,844 represents amounts paid to the original owners of the property in excess of the cost of the property when it was originally devoted to the public service. In addition to this, the company has accrued a balance in its depreciation reserve of \$30,752. A part of this is allocable to the Arkansas properties, and when this balance is divided between the Arkansas and Oklahoma properties, in accordance with the figures on the company's plant account as shown in its Exhibit No. 27, the sum of \$13,752 is allocable to the Arkansas property. When this amount is divided between the original cost and the plant acquisition account we find that \$10,815 is the balance now in the depreciation reserve of the company, which is allocable to the actual original cost of the property. This leaves a balance of original cost of \$29,105. If we consider the plant acquisition costs as a part of the costs, then the undepreciated balance remaining in the gas plant account for the Arkansas property is \$37,012. The original cost studies are subject to the same cautious use which is necessary with regard to the cost studies of the other companies. The Southwestern States Gas Company acquired a great deal of its property from predecessor companies and the records of actual original cost are not entirely dependable.

We find that a fair value for the property of the Southwestern States Gas Company used in serving gas in Arkansas is \$45,000.

We disallow a claim of the company for an additional \$5,000 for going concern value, this for the same reasons that similar claims were disallowed for the other companies.

To the value above found there must be added amounts for cash working capital and for materials and supplies. The company's claim for cash working capital is \$1,024. The evidence of the Department's accountants is that a 45-day allowance for all expenses, exclusive of the cost of gas purchased from affiliated companies, is \$440.

The company's claim for materials and supplies in the amount of \$479 was regarded as reasonable by the Department's engineers and is allowed.

When these allowances are added to the \$45,000 above found, we have a total of \$45,919 as the value of all the property used by this company in serving gas in Arkansas.

[21] This company is planning to build a pipe line to serve Camp Chaffee and its estimate of the cost of this line is \$6,000. At the time of the hearing the contract between the Army and the company with reference to the price of gas had not been agreed upon, but it was certain that the company was going to supply a certain amount of gas for the camp and that the matter of price was going to be worked out. As the construction of this line is regarded by us as certain we include its estimated cost in the rate base of the company in the amount of \$6,000, which gives a total of \$51,919 as the measure of the return which the company must receive for the use of its property.

We find that 6 per cent is a fair return upon the property of this company. This is for reasons heretofore discussed in connection with the Arkansas operation of the other members of the Southern United group. The amount of such return is \$3,115.

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The company claimed for its operating expenses, aside from Federal and state income taxes, the sum of \$5,161. This claim is accepted as proper.

The annual allowance for depreciation is fixed at \$1,450. The company claimed \$1,900 for this item. The amount allowed bears the same relationship to the amount claimed as the allowances which have been heretofore made in the case of the other companies of the Southern United group, except that the allowance for this company is slightly greater than in the case of the other companies on account of the higher proportion of small distribution mains in the property of this company.

To the above there must be added an allowance to take care of income taxes for this company. From the return of \$3,115 there should be deducted \$1,431, leaving net income after taxes of \$1,684. We calculate that an allowance of \$450 is required to take care of Federal and state income taxes.

The total amount necessary, therefore, to cover the expenses, depreciation, return, and taxes of the Southwestern States Gas Company is as follows:

Return	\$3,115
Operating expenses outside of cost of gas	5,161
Annual allowance for depreciation	1,450
Income taxes	450
Total	\$10,176

All gas distributed by this company is purchased from its affiliated companies and at this point the cost of purchased gas need not be considered.

When this total of \$10,176 is added to the total heretofore arrived at for the other companies of the Southern

United group and for the Spiro operations, amounting to \$681,566, we have a total of \$691,742.

Our calculations indicate that the rates proposed by the company will yield an average revenue over the three years of approximately \$682,862. It follows that the company is entitled to the revenue which will be produced by its proposed rates.

We have made several computations to determine whether the rates proposed by the company distribute these costs equitably among its consumers. These studies were made on the commodity-demand basis. The costs were divided into two groups, assigning to the demand group those costs attributable to the fact that the company must be prepared at all times to meet maximum demands and assigning all other costs to the commodity group. These costs were then distributed among the customers in proportion to their demands or load factors, and upon actual consumption.

Such studies are not exact cost analyses. Judgments differ as to what costs to put in each group. For example, in this case some or all of the cost of production at Spiro could well be placed in the demand group. Likewise, in studying some of the larger consumers, the largest part of the cost of serving customers might well be taken out of the commodity group. Likewise, judgments differ as to how the demand costs should be divided—whether on load factors or solely on peak demands.

All of these studies indicate that the Fort Smith Gas Company and the smelter at Van Buren, under the rates filed November 3, 1941, are paying approximately what it costs to serve

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them, and that the proposed charge for the Oklahoma Gas & Electric Company is not unfair, but they also show that the Harding Glass Company is paying much less than the cost of service to it and that the other industrial consumers as a group (outside of the smelter and the glass plant) are paying (under the 15 cent-13 cent rate) considerably more than the cost of serving them.

It is not necessary to state the detail of these studies. In fixing rates, it is not usual to try to find exact costs for each consumer. But on the basis most favorable to it, the rates now charged to the Harding Glass Company fail by a minimum of \$7,000 of paying the cost of service to it and the other industrial consumers as a group are being overcharged by at least \$7,000. Other studies, not made with the intent of finding a basis favorable to the glass plant, indicate as much undercharge. For various reasons connected with the importance of the glass plant to Fort Smith and the history of its location and development there and the fact that it follows a deliberate policy of continuous operation and so has a very favorable load factor, the cost study most favorable to that company should be used. This indicates, however, that the rates to it should be raised at least to 11 cents per thousand cubic feet, a raise of 1 cent over the present rates. This will increase the revenues of the company by approximately \$7,000 per annum. The company will be ordered to reduce its proposed rates to its other industrial consumers so as to reduce the revenues from them by at least \$7,000 per annum. Otherwise, the rates filed by the company should be approved. The

new rates to the Harding Glass Company and to other industrial consumers will be effective for all billing periods ending after January 15, 1942.

The following rate, applied to all the industrial consumers except the Arkansas Smelting Company and the Harding Glass Company and the Oklahoma Gas & Electric Company, will effect the necessary adjustment above stated.

First 2,500 M cu. ft. per month at 15¢ per M cu. ft.

All excess per month at 11¢ per M cu. ft. Provided, however, that the average monthly rate shall not be less than 12¢ per M cu. ft.

We find that the adjustment in the industrial rates above set forth should not be applied retroactively but should be applied only to gas consumed during billing periods ending on or after January 15, 1942. Consequently, no refunds to the consumers will be made and the security furnished by the company at the time the suspended rates were put into effect will be released.

On December 30, 1941, the Southwestern States Gas Company filed with the Department a copy of a contract which has been finally executed between it and the authorities of the United States Army for supplying gas to Camp Chaffee. This contract provides for a sliding schedule of rates with a minimum of 18 cents per thousand cubic feet and as soon as operations at the camp begin it is expected that the average rate will be 18 cents. This is the rate at which we calculated the revenues to be derived from these sales and the contract should be approved.

It is therefore *ordered*:

1. That the special schedule filed on November 3, 1941, covering standby

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service for the generating plant of the Oklahoma Gas & Electric Company be and it hereby is approved.

2. That the revised schedule filed on November 3, 1941, for gas supplied to the plant of the Arkansas Smelting Company at Van Buren be and it hereby is approved. The other rate schedules shall not apply to it.

3. That the Twin City Pipe Line Company shall furnish gas for the plant of the Harding Glass Company for all billing periods ending on and after January 15, 1942, at a rate of 11 cents per thousand cubic feet. No other change is made in the contract between these companies.

4. That the collections made by the Twin City Pipe Line Company and the Southwestern States Gas Company from their industrial consumers for all billing periods ending prior to January 15, 1942, under the schedules heretofore filed be and they hereby are approved and the bond filed to enable the company to collect under such schedules be and it hereby is discharged

and released and that the Merchants National Bank, which has been holding certain excess collections under such schedules in trust, be and it hereby is authorized to release said moneys to the Twin City Pipe Line Company and the Southwestern States Gas Company.

5. That the Twin City Pipe Line Company and the Southwestern States Gas Company shall furnish gas to all their industrial consumers except the Arkansas Smelting Company, the Harding Glass Company and the Oklahoma Gas and Electric Company for all billing periods ending on and after January 15, 1942 at the following rates:

First 2,500 M cu. ft. per month at 15¢ per M cu. ft.

All excess per month at 11¢ per M cu. ft. Provided, however, that the average monthly rate shall not be less than 12¢ per M cu. ft.

6. That the contract entered into between the Southwestern States Gas Company and the United States Army for the supply of gas at Camp Chaffee be and it hereby is approved.

ARKANSAS DEPARTMENT OF PUBLIC UTILITIES

Re Ark-La Electric Coöperative, Incorporated

[Docket No. 526.]

Certificates of convenience and necessity, § 89.1 — Grant or denial — National defense as a factor.

1. There can be no higher public convenience and necessity than the defense of the country, and in passing upon an application for construction of a transmission line to serve a defense industry, the only questions which the Commission should investigate should be whether the necessary power

RE ARK-LA ELECTRIC COOPERATIVE, INC.

is available and whether erection of the line involves unnecessary duplication of existing facilities and an unnecessary use of copper, electrical apparatus, and other critical war materials, p. 114.

Certificates of convenience and necessity, § 25.1 — Duties of state Commission — War needs — Opinion of war authorities.

2. The Commission, although believing that construction of a transmission line for serving a national defense industry during war should be denied because of the availability of power from other sources without duplication of facilities and with the use of fewer construction materials, will defer to the decision of the war authorities, and if the Federal officials having authority to decide such question indicate that the construction will be for the best interests of national defense, a certificate will be granted, p. 118.

Commissions, § 19 — Functions — Violation of state law — Restriction on corporate names — National defense needs.

3. The Commission, although preferring that defense authorities should not order the violation of a state statute restricting foreign corporations doing business in the state with respect to the use of a corporate name, does not have the function to interfere if the Federal authorities so order, p. 118.

Certificates of convenience and necessity, § 168 — Construction of generating plant and transmission line — Evidence as to material.

4. An application for authority to construct and operate a generating plant and a transmission line from that plant to an aluminum plant, based on a statement as to the availability of generating units, should be denied unless the applicant furnishes, in strict confidence if it so desires, information as to the characteristics of these generating units and from whom they are to be obtained, so that the Commission may make its own investigation of their availability, although it is explained that the giving of this information would be contrary to the public interest, p. 119.

Certificates of convenience and necessity, § 73 — Time limit on permit — Construction of plant.

5. The Commission will not grant certificates of convenience and necessity for construction of generating plants and transmission lines in the absence of evidence that the privileges granted can be exercised before the expiration of one year after the grant, p. 119.

Certificates of convenience and necessity, § 163 — Rural electric coöperatives — Definiteness of application.

6. An application which is simply a request that a rural electric coöperative be authorized to construct and operate lines to serve power anywhere in the state, to rural electric coöperatives that are members of the applicant, should be denied without prejudice to a further consideration of the matter when the applicant is in a position to tell the Commission what lines it desires to build and who is to be served, p. 119.

[January 10, 1942.]

APPPLICATION by rural electric coöperative for a certificate of convenience and necessity to construct, maintain, and operate electrical facilities; action on part of application deferred pending decision by war authorities and otherwise denied conditionally.

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By the DEPARTMENT: The Ark-La Electric Coöperative, Inc., a Louisiana corporation, has applied for a certificate of convenience and necessity to construct and operate an electric transmission line from a point on Lake Catherine near Hot Springs, Arkansas, where the Defense Plant Corporation is now erecting an aluminum plant, to the Arkansas-Oklahoma state line, near Fort Smith, Arkansas, said line to be continued on to Markham's Ferry on the Grand, or Neosho river, in Oklahoma,—this line to be used for delivering to the aluminum plant 32,500 kilowatts of firm capacity from the dam at Pensacola on the said Grand river. The application also proposed to construct and operate a steam generating plant of 45,000-kilowatt capacity on the Ouachita river, near Camden, Arkansas, and to construct and operate transmission lines to connect this plant with the aluminum plant and to interconnect with the transmission line from the Grand river dam. The application also proposed, without any other location or specification, to construct and operate "all other transmission lines necessary to serve electric power to rural electric coöperatives that are members of Ark-La Electric Coöperatives, Inc."

[1] The first part of this application is for the construction of the transmission line to the Grand river dam. The applicant has a contract with the Defense Plant Corporation to supply 32,500 kilowatts of firm capacity for the aluminum plant for a short period of time. There can be no higher public convenience and necessity than the defense of the country. Immediately upon the filing of this application, on December 26, 1941, this

Department expressed its attitude that the only questions which it should investigate should be whether the necessary power was available for such transmission and whether the erection of this line involved unnecessary duplication of existing facilities and an unnecessary use of copper, electrical apparatus, and other critical war materials. It notified the War Department, the Office of Production Management, and the Defense Plant Corporation that this application was set for hearing on January 6, 1942, and requested those authorities to have representatives present to hear what evidence might be brought out on these points and, if not contrary to public policy, to testify. The Office of Production Management sent two engineers who were present throughout the hearing, but who did not testify.

The Arkansas Power & Light Company and the Southwestern Gas & Electric Company intervened in opposition to the application, as did an attorney representing holders of preferred stock in the Arkansas Company.

Prior to the hearing the applicant asked the Department to invite the Federal Power Commission to hold a joint hearing on this application. On being informed by the applicant that nothing whatever was pending before the Federal Power Commission with reference to this matter, the Department saw no reason for a joint hearing. At the hearing, Honorable Leland Olds, Chairman of the Federal Power Commission, appeared as a witness for the applicant and read into the record a resolution of that Commission implying that this Department should have invited the Federal Power Commission to sit with it, which reso-

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lution authorized him to appear at the hearing on behalf of the applicant. Chairman Olds testified, among other things, that the proposed line was going to be built and that the Federal Power Commission could order it built.

The government, through the Defense Plant Corporation, is building an aluminum plant near Rammel dam at the foot of Lake Catherine, near Hot Springs, Arkansas. After negotiations and studies, the Defense Plant Corporation decided to install its own power plant. The aluminum plant, however, will be ready to begin operations about June, 1942, and will be ready to go into full operation within a few months thereafter, while its own power plant cannot be completed and ready to operate until some sixteen or eighteen months after July 1, 1942. It is necessary, therefore, that large quantities of power be made available for the operation of the plant prior to the availability of its own generating facilities, this interim power running up, for a short period of time, to as much as 97,500 kilowatts of capacity.

The privately owned utility companies in this state were asked early in the consideration of the plans for this plant to furnish power for it, and, after the Defense Plant Corporation decided to build its own power plant, these utilities were then asked to furnish interim power in the amount of 65,000 kilowatts. This is a large block of power and it is doubtful that this much unused capacity is available in any system in this area. A pool of private utility companies was thereupon formed, embracing most of the large utility companies from New Orleans on the south to Omaha on the

north and from central Mississippi on the east to Big Spring, Texas, on the west. To make all of the generating capacity of this area available for war industries this pool proposed to build certain interconnections. The testimony indicates that these interconnections will use 4,290,500 pounds of copper and cost \$4,277,000, this being in addition to a certain amount of construction which has been heretofore authorized and is now being built, at a cost of \$662,000 and using 770,400 pounds of copper. All of this will be paid for by the utilities. This pool will have a net dependable capacity of 1,512,300 kilowatts. The estimated peak load on the pool, in December, 1942, including all now known defense loads, except this aluminum plant, will be 1,294,260 kilowatts, leaving available for reserves, for the aluminum plant and for additional loads now unforeseen, 218,040 kilowatts. Arkansas is in the center of this pool and the proposed connections are so designed that practically all of this capacity will be available in Arkansas if it is needed. The formation of this pool enabled the Arkansas Power & Light Company to make a contract with the Defense Plant Corporation to supply 65,000 kilowatts of interim power. The construction of the connections above mentioned appears to be necessary for this purpose.

The Defense Plant Corporation later decided to enlarge the capacity of the aluminum plant, making an additional 32,500 kilowatts of interim power necessary. The utility pool offered to furnish this additional capacity. It is able to do so. The Defense Plant Corporation, however, decided to and did enter into a contract with

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the applicant, the nominee of the Rural Electrification Administration, for the supplying of this 32,500 kilowatts.

It is proposed to bring this power over the proposed transmission line from the Pensacola dam on Grand river in Oklahoma. This dam was built by the state of Oklahoma and has been taken over by the government and is now operated by one of its agencies. The generators installed at that dam have a peak capacity of 60,000 kilowatts. The studies made by the War Department, prior to the construction of this dam, and the design of the dam with the power reservoir held at 745 feet, show that the total firm capacity of the dam is 200,000,000 kilowatt hours per annum. This means a firm capacity of around the clock of approximately 22,500 kilowatts. Firm capacity is needed for the operation of the aluminum plant. To deliver 32,500 kilowatts of firm capacity to the aluminum plant would require 36,000 or 37,000 kilowatts of firm capacity at the Markham's ferry and of this transmission line. The dam is now being operated by the Federal Works Agency and its manager testified that it was proposed, since Pearl Harbor, to raise the reservoir level for power purposes to 750 feet, which would give an additional 20,000,000 kilowatt hours of firm energy at the dam. To raise the reservoir to this level would destroy between 40 and 60 per cent of the flood control benefits supposed to be available from this dam. Representatives of landowners on the Arkansas river who will be affected by this loss of flood control benefits have intervened and protested against being deprived of these flood control benefits unless such injury to them is absolutely nec-

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essary for the protection of the country. They suffered a bad flood this fall. To raise this reservoir level to 750 feet will give more firm capacity, but even with this additional storage the firm capacity is a good many thousands of kilowatt hours lower than the firm capacity necessary to guarantee that 32,500 kilowatts will be delivered at the aluminum plant around the clock.

We understood from the evidence that the Federal Power Commission would order the utilities, with which the Grand river dam is now or will be connected, to furnish the applicant the additional power necessary to enable it to carry out its contract. The utilities from whom this additional power will be taken are members of the pool hereinbefore described and are already obligated to contribute to said pool to enable it to deliver the 65,000 kilowatts at the aluminum plant and, unless ordered to assist applicant, would be in a position to assist the pool in carrying out its offer to deliver 100,000 kilowatts of capacity to the aluminum plant.

As hereinbefore stated, the peak capacity of the Grand river dam is 60,000 kilowatts. If this capacity was used only for peaking purposes, it would be available for between eight and ten hours every day. Assuming that the power reservoir level be kept at the designed height of 745 feet, the firm capacity of the dam does not exceed 22,500 kilowatts. To use the dam for firm capacity would simply destroy 37,500 kilowatts of capacity which would be available all over the Southwest territory for war industries if the dam were made a member

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of the pool and if its capacity were used only for peaking purposes.

The utility group has offered to make the authorities in charge of the Grand river dam a member of the pool, to allow them to name a member of the pool's operating committee, so that they would have full information at all times as to whether a fair amount of power was used from the dam and whether a fair price was paid for it, and to settle all differences in regard to these matters by arbitration. It has also made an offer to the Defense Plant Corporation that if it can secure the power from this dam and turn it into the pool, then the pool will transport same to the aluminum plant at what we regard as cost.

From the evidence before us we find that there is not sufficient capacity at the dam to furnish 32,500 kilowatts of firm capacity to the aluminum plant, and that a failure to put the capacity of the dam into the pool for peaking purposes only will destroy at least 30,000 kilowatts of capacity, and possibly as much as 37,500 kilowatts of capacity, which would otherwise be available all over the Southwest for war industries. In order partially to avoid this destruction of capacity, we understand that the Federal Power Commission will order members of the pool to furnish additional power to the applicant. This will enable the Rural Electrification Administration to get into the power picture, but will reduce the ability of the private utilities to serve other war industries through the operations of the pool.

We further find that such power as is available at Grand river dam can be transported to the aluminum plant in Arkansas or to war industries located

elsewhere without the construction of the proposed transmission line, and that the construction of the proposed transmission line duplicates existing facilities which could be used for the same purpose and thereby involves the use of at least 2,900,000 pounds of copper and the expenditure of at least \$3,780,000. The evidence before us indicates that the connections necessary to bring the full 60,000 kilowatts of peaking capacity from this dam into the power pool would involve the use of only 22,000 pounds of copper and an expenditure of approximately \$250,000, and the evidence further indicates that this construction is already under way and would be necessary, in any event, if the members of the pool are to be forced to make a part of their capacity available to applicant to be transported over the proposed line, instead of allowing the pool members to transport all of the energy over their own lines.

We further find that the full requirements for the aluminum plant can be furnished by the utility pool or can be transported to the plant through the pool without the construction of this line and on terms and conditions which ought to assure that the government is not being discriminated against either as regards the amount of power taken from the Pensacola dam or the price paid for it, or the amount charged for transporting it.

We further find that the full available capacity of this territory can more efficiently be made available for war industries throughout the area by having all of said capacity distributed through the power pool, rather than by having some of the members of the pool forced to furnish power to the

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applicant. It is entirely possible that when the applicant calls on its connections for power all of their available power may be needed for the operations of the pool.

[2] If we felt free to exercise our own judgment in this matter the application for the construction of this line would be denied. Our judgment of the evidence is that the construction of this line and the use of the Grand river dam for the furnishing of firm power involves a waste of capacity, of copper and of money, which should not be permitted at this time on the part of either public or private power interests. It is untimely, in this emergency, to encourage or permit either private utilities or public power groups to impose their desires so as to menace the interests of the nation. It is possible that what might be proper in normal times could now be a crime. The construction of this line may also serve to settle and foreclose, through the decision of appointed bureau officials, the question as to whether, after the war, private utilities in Arkansas shall be regulated by publicly owned and subsidized competition. In our judgment this is a question which should be settled either by the state legislature or by the Congress. Either as voters or as legislators we might agree that proper regulation of the rates of privately owned utilities by administrative tribunals, both state and Federal, under the restrictions imposed by the present interpretation of the due process clause, is hopeless, and that it is therefore in the public interest that they should be regulated by publicly owned and subsidized competition. Some of the members of the Department feel that this may be true, but it is our unani-

mous opinion that this is a question which should not be settled nor foreclosed in this manner, but should be passed upon only by a legislative body elected by and responsible to the voters and reflecting the will of all the people. It should not be settled by a bureau or commission, either state or Federal.

However, the applicant has secured a contract from the Defense Plant Corporation to furnish some power to the aluminum plant. The authorities in Washington are charged with the duty of preparing the nation for war and of conducting that war. This Department will defer to the decision of the war authorities. A decision as to the issuance of the certificate for the proposed transmission line will be held up until the evidence taken on the hearing can be placed before these authorities. We shall send, as soon as possible, copies of the evidence so taken to the War Department, the Office of Production Management, and to the Supply Priorities Allocation Board so that those authorities may have before them all of the testimony brought out on both sides of the question.

If, after having an opportunity to consider such evidence, said authorities, or that one of them having authority to decide such question, indicate to us that the construction of said line will be for the best interest of national defense, a certificate will be granted.

[3] We point out one minor matter. The Arkansas statute provides that a foreign corporation doing business in Arkansas shall not use a corporate name such as that of the applicant. We should prefer that the defense authorities should not order that this law be violated but if they do so order

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we do not consider it our function to interfere. Further, in view of § 11 of Art. XII of our state Constitution and of § 5045 of Pope's Digest of the statutes of Arkansas and of the decision of our supreme court in the case of *Southwestern Gas & E. Co. v. Patterson Orchard Co.* (1929) 180 Ark 148, 20 SW(2d) 636, we doubt if applicant, a Louisiana corporation, has the right to condemn private property for its right of way. If this line is to be completed by June 1, 1942, the right of way must probably be acquired by condemnation rather than by purchase. Private utilities, incorporated in other states, circumvent this state law by organizing a dummy corporation in Arkansas to condemn land for the foreign corporation and this subterfuge is of course available to the REA, as well as to private utilities.

[4, 5] That part of the application with reference to the construction and operation of a generating plant at or near Camden, Arkansas, and of a transmission line from said plant to the aluminum plant, which application was filed on December 26, 1941, stated that the applicant had available to it six 7,500 kilowatt steam-generating units and that the applicant proposed to use those units and have the plant in operation prior to December 31, 1942. We undertook our own investigation of this statement and ascertained that said units were probably not available, and, at the hearing on January 6, 1942, ten days after the application was filed, the applicant's own witness testified that at least five of these generating units were not available, but that the Rural Electrification Administration could secure secondhand generating units, complete with boilers and con-

densers, of a capacity of 21,000 kilowatts, which could be placed in operation at once. When asked to describe these units and where they would be obtained, the answer was made, without explanation, that the giving of this information would be contrary to the public interest. As to this plant, we shall not grant a permit for its construction and operation unless the applicant furnishes us, in strict confidence if it so desires, information as to the characteristics of these generating units and from whom they are to be obtained, so that we may make our own investigation of their availability. Our statute contemplates that if privileges granted under permits issued by this Department are not used within one year, they shall cease. Complications have arisen in the past through the granting of permits, the privileges under which could not be exercised within one year, and it is our intention not to grant any further certificates in the absence of evidence that the privileges granted thereunder can be exercised before the expiration of one year after the grant.

[6] The third part of the application was simply a request that the applicant be authorized to construct and operate lines to serve power anywhere in the state, to rural electric coöperatives that are members of the applicant. This part of the application will be denied without prejudice to a further consideration of the matter when the applicant is in a position to tell us what lines it desires to build and who is to be served.

It is therefore *ordered*:

1. That copies of this order and of the testimony taken at the hearing be

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sent of the War Department, to the Office of Production Management, and to the Supply Priorities Allocation Board. If thereafter said authorities, or that one of them having power to decide such question, indicate to this Department that the construction and operation of the transmission line from the aluminum plant site to Markham's ferry is considered to be for the best interest of national defense, then a certificate will be issued for the construction and operation, for the purpose of furnishing power to the aluminum plant, of that part of the line in Arkansas.

2. That that part of the application concerning the construction of a generating plant on the Ouachita river near Camden and the construction of transmission lines from said plant to the aluminum plant site be continued

for thirty days from this date. If within that time the applicant furnishes to the Department, in confidence if it so desires, information as to the characteristics of the secondhand generating units which it proposes to install and the source from which it expects to obtain them, then this part of the application will be considered further. If such information is not furnished, the application will be denied.

3. That part of the application for "the construction and operation of all other transmission lines necessary to serve electric power to rural electric coöperatives that are members of Ark-La Electric Cooperative, Inc.," will be denied without prejudice to renewal thereof at such time as the applicant is able to describe the lines which it proposes to erect and the service which it proposes to furnish.

SECURITIES AND EXCHANGE COMMISSION

Re Panhandle Eastern Pipe Line Company

[File No. 70-447, Release No. 3299.]

Security issues, § 1 — Alteration of rights — Consent of sole stockholder adversely affected.

Alteration of the rights of a parent corporation, holding all the Class A preferred stock of a subsidiary company, with respect to the basis for computing participation rights in earnings may be permitted to become effective when the alteration has been agreed to between the sole preferred stockholders and a large minority common stockholder and the alteration will not adversely affect the minority public holders of common stock but will inure to their benefit.

[January 28, 1942.]

DECLARATION filed regarding alteration of rights of holder of preferred stock of a subsidiary of a registered holding company; permitted to become effective.

APPEARANCES: Edward N. Goodwin and William L. Glenn, for Pan-

handle Eastern Pipe Line Company; William R. Nowlin and Ambrose

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Selig, for the Public Utilities Division of the Commission.

By the COMMISSION: Panhandle Eastern Pipe Line Company, a subsidiary company of both Columbia Gas & Electric Corporation, a registered holding company, and Columbia Oil & Gasoline Corporation, also a subsidiary company of Columbia Gas, has filed a declaration and an amendment thereto, pursuant to §§ 6(a) and 7 of the Public Utility Holding Company Act of 1935, 15 USCA §§ 79f, 79g, regarding a proposal to alter the rights of the holder of its Class A preferred stock with respect to the declaration during the year 1941 and payment of a participating dividend, arising from a change in the basis on which such participating dividend is to be computed.

After appropriate notice, a public hearing was duly held. Having examined the record, we make the following findings:

Panhandle Eastern, a Delaware corporation, was organized on December 23, 1929, under the name of Interstate Pipe Line Company. Its present name was adopted on May 9, 1930. It is engaged principally in the production, purchase, transmission, and sale of natural gas at wholesale.

Included in the capitalization of Panhandle Eastern are Class A preferred stock,¹ 100,000 shares, par value \$100 per share, Class B preferred stock, 10,000 shares, par value \$100 per share, and common stock, 807,367 shares, without par value but with a stated value of \$25 per share. The preferred stocks and 404,326 shares

(50.1 per cent) of the common stock of Panhandle Eastern are owned beneficially by Columbia Oil and held of record by Gano Dunn, trustee for Columbia Oil, appointed pursuant to a consent decree, dated January 29, 1936, in Cause No. 1099 in equity in the district court of the United States for the district of Delaware. 339,475 shares (42 per cent) of the common stock are owned by Missouri-Kansas Pipe Line Company (Mokan) and the balance (7.9 per cent) is in the hands of over 1,700 holders.

The Class A preferred stock, in addition to a preferential cumulative dividend of \$6 per share, is entitled to receive as a class one-fourth of all dividend distributions in excess of \$1.50 per share on the common stock declared or paid in any one calendar year.

The problem before us is whether, under the circumstances here, a change in the basis of computing participating dividends on the Class A preferred stock of Panhandle Eastern during the year 1941 to the extent of reducing the aggregate amount to which such holder would otherwise be entitled in the manner set forth in the certificate of incorporation would be such an alteration of the rights of the holder thereof as to be deemed detrimental to the public interest or the interest of investors and consumers.

The circumstances giving rise to such alteration of rights are as follows:

On or about January 25, 1941, Panhandle Eastern distributed its entire interest in Central Distributing Company, a wholly owned subsidiary,² by

¹ The refunding and retirement of the Class A preferred stock has been approved by us. See Holding Company Act Release No. 3286.

² At the time of the distribution, Panhandle Eastern was exempt from the provisions of the act by virtue of pending applications filed

SECURITIES AND EXCHANGE COMMISSION

way of a dividends consisting of one share of common stock of the subsidiary on each share of its own common stock.³ This subsidiary is engaged in the business of distributing and selling at retail natural gas in the states of Kansas and Missouri. At the meeting of the board of directors of Panhandle Eastern, whereat such dividend was declared, a minority of the board, representing Moka, contended that such distribution was one of capital rather than a dividend. As will be shown below, this contention was resolved through compromise. The earned surplus account of Panhandle Eastern was debited with \$339,094.14, the aggregate par value of the stock distributed.⁴

Later, in the year 1941, but prior to September 29, 1941, Panhandle Eastern paid cash dividends on its common stock aggregating \$1 per share, thereby making total dividends of \$1 in cash and 42 cents in kind declared and paid per share as of that date.

In order to facilitate the declaration and payment of additional dividends on Panhandle Eastern's securities, Moka and Columbia Oil agreed in

writing that the aggregate amount of dividends per share of common stock declared and paid prior to September 29, 1941, should be deemed for the purpose of computing participating dividends to be \$1.25, which amount included at 25 cents per share the dividend paid in shares of common stock of Central Distributing Company that was declared out at 42 cents per share.⁵

In reliance upon the agreement there was declared, on September 29, 1941, an additional cash dividend of \$1 per share on the common stock of Panhandle Eastern and a participating dividend on its Class A preferred stock of \$201,841.75⁶ on the basis of \$1.25 in lieu of the larger participating dividend (\$247,592.55) which the holder, Columbia Oil, would otherwise be entitled to receive on the basis of \$1.42; payment of such dividend being withheld pending our action with respect thereto.

In our consideration of this matter, we note that Columbia Oil, holder of 100 per cent of the Class A preferred stock and 50.1 per cent of the common stock, and Moka, holder of 42 per cent of the common stock of Panhandle Eastern, agreed to the compromise

pursuant to §§ 2(a)(8) and 3(a)(3), 15 USCA §§ 79b (a)(8), 79c (a)(3) (File Nos. 31-108, 31-109, and 31-493).

³ Prior to such distribution, the authorized capital stock of Central Distributing Company, consisting of 100 shares of common stock, without nominal or par value, was increased to 807,367 shares (equaling in number the outstanding shares of common stock of Panhandle Eastern), each with a par value of 42 cents. Thereupon Central Distributing Company issued to Panhandle Eastern its 807,367 shares of common stock in exchange for \$250,000 of its 6 per cent demand notes, \$25,000 of its open account indebtedness, and 100 shares of its original common stock (stated on its books at \$59,000.43) and \$5,093.71 in cash.

⁴ On December 4, 1940, an independent engineer estimated the value of the underlying properties of Central Distributing Company 42 PUR(NS)

at a minimum of \$302,000 and a maximum of \$339,000.

⁵ Moka and certain individual stockholders, on or about March 1, 1941, sold to Columbia Oil all their holdings of common stock of Central Distributing Company at a price of 20 cents per share. Thereafter, on March 20, 1941, Columbia Oil sold to a nonaffiliated purchaser the shares it bought and the shares it received as a dividend at a price of 27 cents per share. The prices received in these sales furnished the basis for the compromise figure of 25 cents.

⁶ In the resolution declaring these dividends, the board of directors stated that the dividend paid on January 25, 1941 in shares of Central Distributing Company would in no way be affected but that the new basis of computation had been assumed solely for the purpose of making the declarations with respect to the above participating dividend.

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figure used as the basis in computing the participating dividend in question and that such alteration will not adversely affect the minority public holders of common stock but, rather, will inure to their benefit. It is also noted that at the time of the dividend distribution of the securities of Central Distributing Company there existed no quoted market value for such securities and that the compromise figure approximates the average of the prices received in the sales and purchases thereof prior to the declaration of the participating dividend. The record contains an opinion of counsel to the effect that no state Commission or state securities commission has jurisdiction over the acts in question. Therefore, the requirements of subsection 7(g) of the act appear to be satisfied, and we deem it unnecessary under the circumstances here involved to make adverse findings with respect to the matters set forth under § 7(e) of the act. Accordingly, an appropriate order will issue permitting the declaration to become effective.

ORDER

Panhandle Eastern Pipe Line Company, a subsidiary of both Columbia

Gas & Electric Corporation, a registered holding company, and Columbia Oil & Gasoline Corporation, which is also a subsidiary company of Columbia Gas & Electric Corporation, having filed a declaration pursuant to §§ 6(a) and 7 of the Public Utility Holding Company Act of 1935 regarding a proposal to alter the rights of the holder of its Class A preferred stock (wholly owned beneficially by Columbia Oil & Gasoline Corporation) with respect to the declaration during the year 1941 and payment of a participating dividend, arising from a change in the basis on which such participating dividend will be computed, on which altered basis the aggregate amount of such participating dividend will be \$201,841.75 instead of \$247,592.55, otherwise payable;

A hearing with respect to the issues raised by the declaration having been duly had after appropriate notice, and the Commission having examined the record and made and filed its findings and opinion therein;

It is *ordered* that, subject to the terms and conditions prescribed in Rule U-24 promulgated under the act, the aforesaid declaration be and the same hereby is permitted to become effective forthwith.

SECURITIES AND EXCHANGE COMMISSION

Re Maine Seaboard Paper Company et al.

[File No. 70-472, Release No. 3294.]

Security issues, § 13.2 — Exemption under Holding Company Act.

1. An industrial subsidiary of a registered holding company is entitled to an exemption pursuant to § 6(b) of the Holding Company Act, 15 USCA § 79f(b), for the issuance of securities for the purpose of financing the purchase of a steamship to be used in the company's business, p. 125.

SECURITIES AND EXCHANGE COMMISSION

Consolidation, merger, and sale, § 18 — Acquisition by subsidiary — Effect on holding company system.

2. Approval of the acquisition by one industrial subsidiary of a registered holding company from another such subsidiary of its securities and acquisition by the latter subsidiary of a steamship may be approved pursuant to § 10 of the Holding Company Act, 15 USCA § 79j, although under certain circumstances the Commission might look with disfavor upon a substantial expansion of the activities of nonutility subsidiaries, where the registered holding company has filed a plan of reorganization containing as one of its provisions a divorcement of industrial subsidiaries and the approval of the transactions would not impair the Commission's powers and duties under § 11 of the act, 15 USCA § 79k, p. 125.

[January 26, 1942.]

JOINT APPLICATION by nonutility subsidiaries of a registered holding company for approval of acquisition of a steamship and acquisition by one of the companies of the securities of another, and application for exemption of security issues pursuant to § 6(b) of the Holding Company Act; granted.

APPEARANCES: E. N. Maxcy, for applicants; Harlow B. Lester and Edward F. McCabe, for the Public Utilities Division of the Commission.

By the COMMISSION: This matter involves the joint applications of Maine Seaboard Paper Company ("Seaboard") and the Wright Company ("Wright"), two nonutility subsidiaries of New England Public Service Company, a registered holding company.

Seaboard, a Maine corporation, is a manufacturer of paper, principally newsprint, and owns and operates a paper mill at Bucksport, Maine. Wright, a Delaware corporation, acts as sales agent and distributor for Seaboard and maintains its principal office in New York city.

Wright now proposes to acquire the S. S. Malang, a steamship of approximately 3,354 tons gross for \$350,000 from the estate of Clifford D. Mal-lory. The S. S. Malang has been chartered by Seaboard since 1930 and

has been used to transport newsprint manufactured by that company from its plant at Bucksport, Maine, to various points of delivery including Boston, New York, and Baltimore.

In order to finance the purchase, Wright proposes to issue and sell 1,750 shares of common stock, having a par value of \$100 per share, at the aggregate par value thereof and its \$175,000 4 per cent one-year note to Seaboard. The note will be secured by a first preferred ship mortgage on the S. S. Malang.

It is estimated that there will be a substantial saving in the cost of transporting the paper by the purchase of the S. S. Malang as contrasted with the previous charter arrangement. The interior of the ship has been specially constructed for the transportation of newsprint. Inasmuch as sales from Seaboard to Wright are made f.o.b. Bucksport, Wright takes title to the paper there, will be carrying its own merchandise only, and will not become a common carrier.

RE MAINE SEABOARD PAPER CO.

[1] With respect to the issue and sale of its common stock and its note, Wright is entitled to an exemption from the provisions of § 6 (a) of the act, 15 USCA § 79f (a) pursuant to the last clause of the third sentence of § 6 (b) since the issuance of such securities are solely for the purpose of financing its business and since Wright is not a holding company, a public utility company, an investment company, or a fiscal or financing agency of a holding company, a public utility company, or an investment company.

[2] The acquisition of the stock and note of Wright by Seaboard is subject to § 10 of the act, 15 USCA § 79j. Likewise the acquisition of the S. S. Malang may be deemed to be the acquisition of an interest in another business and likewise subject to the same section. We observe no basis for making adverse findings in respect to any of the matters set forth in § 10 (b). The question remains whether these acquisitions will be detrimental to the carrying out of the provisions of § 11, 15 USCA § 79k, so as to run counter to the provisions of § 10 (c) (1). Under certain circumstances we might look with disfavor upon a substantial expansion of the activities of nonutility subsidiaries of a registered holding company. In the case of the New England Public Service Company holding company system we have already instituted proceedings pursuant to § 11 (b) (2) of the act, Re Northern New England Co. Holding Company Act Release No. 2291. *Ibid* (1941) Holding Company Act Release No. 2464, 8 SEC 419, 37 PUR(NS) 11; (1941) Holding Company Act Release No. 2737, 9 SEC —. On December

6, 1941, New England Public Service Company filed a plan of reorganization which contains as one of its provisions a divorce from New England Public Service Company of its industrial subsidiaries. No hearings have been held on this plan and no action has been taken by the Commission with respect thereto. It is quite possible that this plan or some other plan will result in such a divorce. Moreover, the Commission may in appropriate proceedings under § 11 (b) (1) of the act require the divestment of nonutility enterprises which are not reasonably incidental or economically necessary or appropriate to the operations of an integrated public utility system. We made no decision on this point. The approval of the transactions now before us does not impair our powers and duties under § 11 of the act.

An appropriate order will issue.

ORDER

Maine Seaboard Paper Company and The Wright Company, subsidiary companies of New England Public Service Company, a registered holding company, having filed applications pursuant to §§ 6 (b) and 10 of the Public Utility Holding Company Act of 1935 regarding the acquisition by The Wright Company of the S. S. Malang, regarding the issuance and sale by The Wright Company to Maine Seaboard Paper Company of 1750 shares of common stock, having a par value of \$100 per share, at the aggregate par value of such stock and its \$175,000 one year promissory note, and regarding the acquisition of such securities by Maine Seaboard Paper Company:

SECURITIES AND EXCHANGE COMMISSION

It is *ordered* that said applications subject to the terms and conditions of Rule U-24.
be and the same hereby are granted

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

Philadelphia Electric Company

[Complaint Docket No. 13281.]

Service, § 170 — Resale of electricity — Submetering rule.

No basis was found for further revision of a rule relating to resale of current where a former rule prohibiting resale without the consent of the company was superseded by a rule permitting a customer to resell energy purchased from the company under a single contract at one application of an available rate when the purchased energy is the exclusive source of the customer's supply, is for the total requirements of the premises served, and the location and use of the resold energy conforms to the availability requirements of the tariff for supply to a customer for his own account.

(BUCHANAN and BEAMISH, Commissioners, dissent in separate opinions.)

[January 19, 1942.]

I NVESTIGATION and examination of propriety of submetering and remetering of electric current; proceedings terminated after revision of resale rule.

By the COMMISSION: This proceeding was instituted under § 1008 of the Public Utility Law for the purpose of investigation and examination of the propriety of submetering and remetering of electric current as permitted by the Philadelphia Electric Company. The situation principally concerns resale of current by landlords to their office building or other tenants although many other kinds of resale and remetering arrangements are involved. An appearance was entered on behalf of the Philadelphia Housing Authority, and the Building Owners' and Managers' Association of Philadelphia was permitted to intervene as

a party respondent. No consumer appeared or criticized the existing situation or practices. Briefs have been filed, and the matter is before us for disposition.

The rule of respondent relating to resale of current involved in this case is Rule 13.1 of Tariff Electric P.U.C. No. 17, which reads as follows:

"All purchased electric service on the premises of the customer shall be supplied exclusively by the company, and the customer shall not, directly or indirectly, sell, sublet, assign, or otherwise dispose of the electric service, or any part thereof, without the consent

PENNSYLVANIA PUB. UTIL. COM. v. PHILADELPHIA ELEC. CO.

of the company. This rule does not apply to a public utility company purchasing service in bulk expressly for the purpose of distributing it to others."

Although the rule in terms requires precedent permission, respondent has never specifically given or refused consent for remetering or resale. Respondent does not even know the extent of remetering among its customers. The record indicates that, prior to connection of service and occasionally thereafter, investigations are made of the premises of each customer to determine the service conditions. If respondent is satisfied that the conditions indicate a single consumer unit, service is made available through a single meter. No consideration is given to the disposition of the energy after it passes through the meter, except as such disposition may affect the character of the consumer unit, as single or otherwise.

The above outline of respondent's practice was not set forth in its tariff and thus was neither available to a prospective consumer nor subject to effective control by the Commission. Regardless of the reasonableness per se of the tariff rule or the practice thereunder, clarification and amplification was clearly necessary. Apparently stimulated by the instant proceeding, respondent has incorporated in its Tariff Pa. P.U.C. No. 18, effective September 1, 1941, a new rule covering resale of service designated Rule 13.1 which reads as follows: Resale of Service. "A customer may resell energy purchased from the company under a single contract at one application of an available rate when the purchased energy is the exclusive source

of the customer's supply, is for the total requirements of the premises served, and the location and use of the resold energy conforms to the availability requirements of this tariff for supply to customer for his own account." This revised rule read with Rule 2.3 covering single-point availability, embodies a clear statement of the requirements of respondent with relation to resale of energy, and we find nothing in the present record necessitating further revision.

This proceeding could be terminated without further discussion. However, we deem it appropriate to state that we have considered the advisability of a rule absolutely prohibiting remetering or resale of current. The so-called "practical" difficulties envisaged by respondent as resulting from such a rule do not require detailed comment, but it may be observed that some predictions could not reasonably be expected to eventuate and the fulfillment of others might well produce compensating benefits. Also, we have no doubt of our jurisdiction to consider the reasonableness and justness of any tariff rule and the practice thereunder, and to take appropriate corrective action if the rule appears unreasonable or its application unjust: *Hickey v. Philadelphia Electric Co.* (1936) 122 Pa Super Ct 213, 220, 14 PUR(NS) 349, 184 Atl 553. Aside from "practical" considerations and technical objections to jurisdiction and procedure, our decision not to require prohibition of remetering or resale turns upon our conclusion that the record does not show such a requirement to be necessary at this time for public protection; therefore,

Now, to wit, January 19, 1942, it is

PENNSYLVANIA PUBLIC UTILITY COMMISSION

ordered: That the instant proceeding be and is hereby terminated.

Commissioners Buchanan and Beamish file dissenting opinions.

BUCHANAN, Commissioner, dissenting: This action is based upon Rule 13.1 of Tariff Electric Pa. P.U.C. No. 17 of the respondent company. In effect, the contention of the Commission was that this rule was actually a rate-making rule and placed in the hands of the Philadelphia Electric Company a rate-making function which by law vested solely in the Commission.

Effective September 1, 1941, respondent promulgated a new rule designated Rule 13.1 Tariff Pa. P.U.C. No. 18, which modifies to some degree the objectionable feature of the original rule but still retains in the tariff a price-fixing or rate-making function which violates the Public Utility Law and assumes to respondent a discretion derogatory to the authority of this Commission and discriminatory between customers of the Philadelphia Electric.

This case should not be closed but should be carried to a conclusion so that a very doubtful situation may be resolved into a decision. In effect, what the majority is doing in this case is to say that a new rule which continues the objectionable features of the first rule is legal, whereas the basis of the complaint was that the original rule was illegal.

The effect of the present action is that the Commission has closed a case which the Commission instituted on its own initiative while the reason which motivated the Commission's action still persists.

BEAMISH, Commissioner, dissenting: I strongly dissent from the majority opinion in this case. Either this Commission has the right to inquire into and to fix rates of electricity sold directly to consumers or it has not that right.

When the Philadelphia Electric Company sells to a landlord and the landlord resells to a tenant at a profit to the landlord, the landlord in my opinion becomes a public utility and has no right to extort a profit for such sale. Neither does the Philadelphia Electric Company have the right by any devious reason or any device whatever to make such a sale to a landlord for a profitable resale by the landlord of such current.

The reasoning of the majority in refusing to pass upon and to condemn such illegal resales places the majority in the ranks of the Ancient Order of Hairsplitters. By its reasoning and its action the majority opinion makes it possible for electric companies, acting in concert with landlords, to set up in Pennsylvania an illegal merchandising of electric current in Pennsylvania. The evasive report and order setting forth the majority's "decision not to require prohibition of remetering or resale" carries with it an approval of the company's contention that it shall be the sole judge of its right to make such resales.

I contend that the prohibition of resales of electrical current involving a profit to landlords is a requirement that is necessary for public protection.

I protest with all the vigor at my command against such a surrender of the Commission's rights and powers to the Philadelphia Electric Company.

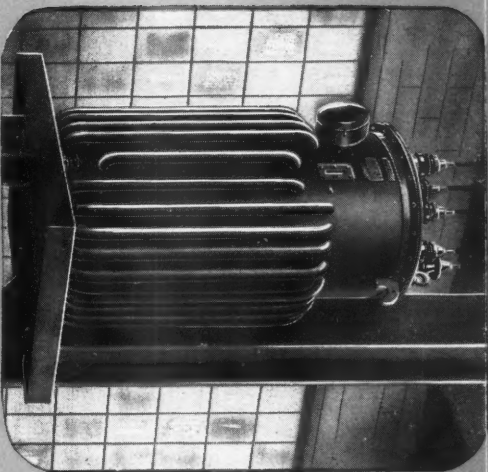
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KUHLMAN ELECTRIC COMPANY • BAY CITY, MICHIGAN



Q. How do Sol-T-Kuhls save floor space?

A. They may be installed at the load center—even on beams up near the ceiling. This saving of floor space is very important, especially today in already crowded manufacturing plants.



Q. Is it true that plant engineers like Sol-T-Kuhls?

A. Yes. They eliminate expensive vaults, save floor space, improve voltage regulation and avoid much of the expense of secondary copper. Write today for further facts.

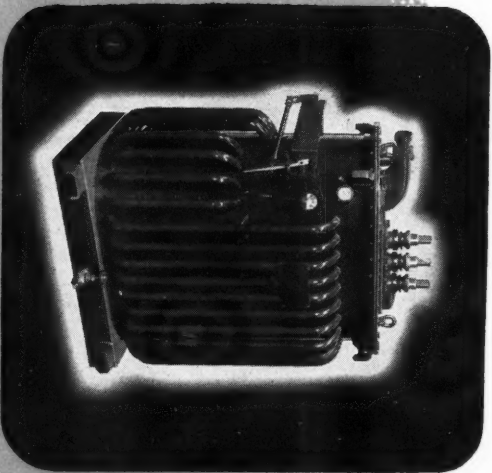
In addition to Sol-T-Kuhl Transformers, Kuhlman builds a complete line of Distribution, power, CSP, and Dry Type transformers and line regulators. It will pay you to get the facts about these units which are the result of Kuhlman's fifty years experience in the building of efficient transformers.

Kuhlman

KUHLMAN ELECTRIC COMPANY • BAY CITY, MICHIGAN

Photograph No. 3

ON KUHLMAN SAF-T-KUHL TRANSFORMERS



Q. Where are Kuhlman Saf-T-Kuhl Transformers Best Used?

A. In manufacturing plants. A plant wishing to modernize or expand will often find it less expensive to divide existing electrical circuits into several sections and install a Kuhlman Saf-T-Kuhl transformer at the load center of each section.



Q. Why are expensive vaults eliminated by Kuhlman Saf-T-Kuhl Transformers?

A. Kuhlman Saf-T-Kuhl Transformers are filled with a non-inflammable, non-explosive, inert cooling fluid and are thus 100% safe. They may be installed at strategic or convenient points in a plant with utmost safety.

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MECHANIZED WAR? O. K.!

Machines are our dish!



FOUR MILLION MEN in uniform don't make an Army. Not until you add the forty million men who make the guns, the warships, the tanks, the planes—even the uniforms. Indeed not until you again add to these, the men who make the machines that make the machines that make the guns.

You can't build battleships or bombers, tanks or machine guns without machine tools. For machine tools not only make weapons. They're necessary in building all the other tools that make weapons. From monsters like steam hammers, cranes, forges, presses, down to midgets like needles and hair springs.

So, American tool makers promptly shouldered their job. They expanded plants. They devised new short cuts. They rapidly trained new men. They invented mass production methods hitherto considered impossible.

The Van Norman Machine Tool Company went from \$100,000 a month and 350 workers in 1939 to \$1,000,000 and 2,000 workers this month. The King Company doubled its capacity. Norton Engineers have established an all time record turning out machines at five times normal capacity.

But no matter how willing tool makers were, they needed help from the rest of industry. And here's how they got it.

Boston Wire Stitcher Company adapted its equipment for Anti-Aircraft gun parts. The American Can Company is producing parts and sub assemblies; Mohawk Carpet Mills is turning out certain types of machine tools—the list is endless. That's how American industry operates under the free enterprise system.

If the dictators live long enough to look back they'll call it another American industrial miracle.

They called the play. They made it a mechanized war. All right, we'll mechanize it from hell to breakfast, we'll make it a flush-riveted, double-chocolate, turbo-super-charged one. It's our special dish.

There are more cars in Brooklyn than in Germany. There are more in California than in all the aggressor countries put together. Nationally speaking, that's only another way of saying that some 75,000,000 or 80,000,000 folks in this country are habituated to bossing horse-power around, usually at speeds above the legal limit.

There's a cue for big-time, all-out strategy in that.



This message is published by

NATION'S BUSINESS

It is the 61st of a series contributed toward a better understanding of the American system of free enterprise.



Industrial Progress

Selected information about manufacturers, new products, and new methods. Also news on utility expansion programs, personnel changes, recent and coming events.

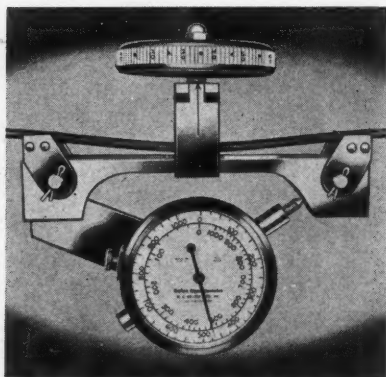


Equipment Notes

Dynamometer Aids Wire Maintenance

A combination shunt-traction dynamometer for utility use to accurately determine the pound pull on power, transmission and guy strand has been developed by W. C. Dillon & Company, Inc., Chicago.

The new dynamometer enables the utility engineer to know exactly the amount of ten-



Keeps Wire at Proper Tension

sion being put upon wires when they are installed and afterward during maintenance. The dynamometer may be used separately or with other apparatus and in any position without affecting the accuracy of recording. Ordinary workmen without engineering knowledge can quickly place power transmission, cable messenger, and guy strand at the proper tension and sag.

G-E Watthour-Meter Tester

The General Electric Company announces an improved photoelectric watthour-meter tester featuring a new electric circuit which requires no adjustment and remains unaffected

by normal room lighting or by stray light falling on the phototube. The unit's "electric eye" makes the testing completely automatic and allows the operator more time for other useful work.

Multi-Point pH Recorder Gives Single-Chart Record

Simultaneous records of pH at separate and independent points in a fluid-flow system can be utilized to provide a continuous "before and after" picture of pH that enables the operator to continuously see the effectiveness of the process or treatment in use, and accordingly, guides him to attain best results.

According to an announcement by Cambridge Instrument Company, Inc., New York, developers of a new multi-point pH recorder, an actual record from the condensate system of a large utility generating plant shows that such guidance has helped to solve the important problem of turbine blade deposits.

The first application of the new multi-point pH recorder was made in the power plant field where corrosion of boiler systems is largely influenced by the pH of the feedwater. Continuous records from the instrument have proved so useful that operators of the original installation have already put additional units to work.

Supervised Boiler Water Conditioning

Water Treatment Company of America, Pittsburgh, Pa., producers of Baerite Organic Formulas announce a new, completely supervised system of boiler water conditioning known as the Technical Water Conditioning System.

The Technical System combines the advantages of complete supervision and analytical servicing of boiler, feed line, condensers, etc., plus a simplified natural water correction utilizing individualized Baerite Organic Formulas especially developed from analysis of water samples and boiler or water system conditions.

These specific formulas are individual variations of the standard Baerite Organic For-

**BLACKOUTS and other WAR MEASURES
DEMAND PROTECTIVE LIGHTING**

WHEAT

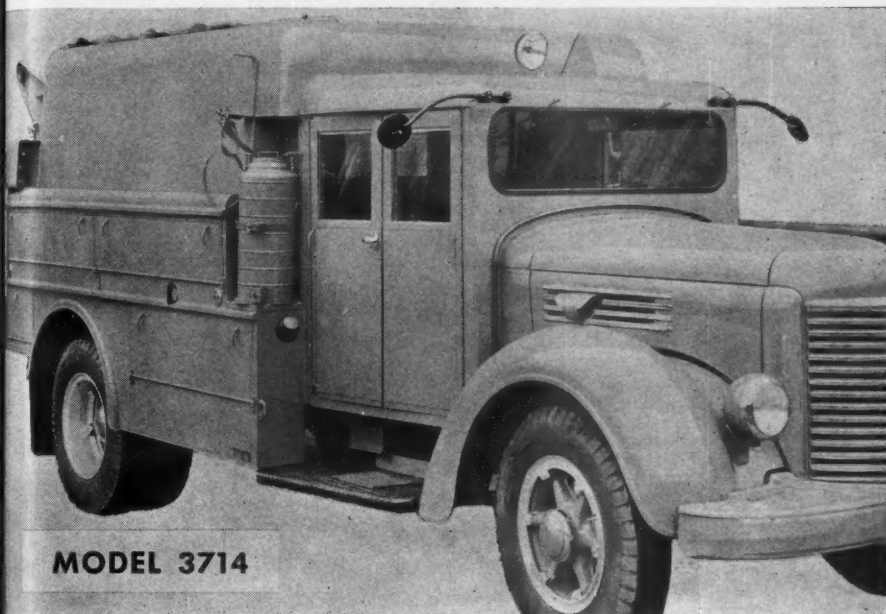
Rechargeable Spotlight

KOEHLER MFG. CO. Marlboro, Mass.

25,000 Beam C.P.
2,500 Ft. Beam
12 A.H.—4 Volt
Weight 6 lbs.
1,000 Hours
Battery Life



Mention the FORTNIGHTLY—It identifies your inquiry



MODEL 3714

AMERICAN

**Public Utilities Equip-
ment for Motor Vehicles
Includes**

- Line Construction Bodies
- Maintenance Bodies
- General Service Bodies
- Meter Bodies
- Street Light Patrol Bodies
- Pole Trailers
- Cable Splicing Trailers
- Power Take-Offs
- Pole Derricks
- Reels and Associated
Accessories

7-MAN CREW COMPARTMENT IS COMFORTABLE AND SAFE

You increase the efficiency of your linemen, improve their morale, and assure their safety by providing for their comfort with this seven-man crew compartment. Built integral with the body, it accommodates the crew without unduly encroaching on the space for carrying materials. Noteworthy features are large drop-windows in sides for ample ventilation in summer; bus-type door; emergency door in back partition; insulated roof; well-upholstered lazyback seats with tubular frames, and many other superior points. Send for illustrated bulletin.

THE AMERICAN COACH & BODY CO.
WOODLAND AVE. AT E 93d ST., CLEVELAND, OHIO

AMERICAN

LINE CONSTRUCTION BODIES

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Equipment Notes (Cont'd)

mulas previously marketed by the company. Formula variations developed to exactly fit the needs of each user are assigned a special identifying number, just as prescriptions are handled, and are only supplied to the original user except where water conditions are exactly duplicated. Regular, scheduled boiler and water inspections and recommendations by company experts are a valuable part of the service.

Chief advantage of the new system over other methods is the ease and moderate cost of application which reduces the staff required to administer water conditioning materials in the plant.

Adds Tri-Clad Motors

Three new motors—a vertical general-purpose polyphase motor, a vertical shielded polyphase motor (1 to 20 hp) and a vertical shielded single-phase motor (1 to 5 hp)—have been added to the General Electric Tri-Clad family. The shielded-type motors are especially suited to pumping applications, and the general-purpose motor is suitable for use in the machine tool industry as well as for agitators, mixers, and similar applications.

Meta-Fold Blackout Awning

A practical answer to the blackout problem for industrial, commercial and residential buildings is seen in the introduction of the "Meta-Fold," metal, blackout awnings, designed and manufactured by the Acklin Stamping Company, Toledo, Ohio.

According to the manufacturer these sturdily constructed metal awnings, which are installed on the exterior of the building, are operated as simply as the old-time roll top desk. For sunlight protection, the metal awning can be lowered half-way. For complete blackout, the awning is fully lowered.

New Blackout Street Light

A blackout street light, which produces light equivalent to that from the flame of a single candle, has been developed in General Electric's illuminating laboratory at Schenectady for use during possible air raids or other emergencies when the regular street and highway lights must be put out.

The entire luminaire is painted black. In it is mounted a 10-watt incandescent lamp so concealed that the only illumination visible is through a narrow, circular piece of plastic around the side. This light cannot reach the eyes of aviators above because of a projecting black canopy at the top.

DICKE TOOL CO., Inc.**DOWNERS GROVE, ILL.***Manufacturers of***Pole Line Construction Tools*****They're Built for Hard Work*****K-M Electric Table Baker**

The K-M electric baker, a time-saving dining-table cooking appliance is announced by Knapp-Monarch Co., St. Louis, Mo. The new appliance is versatile enough to perform several baking tasks with speed and delicious results. Biscuit-baking with this appliance is as easy as making waffles or toast. It bakes eight large-size biscuits or twelve smaller ones in eight to ten minutes.

A convenient heat indicator on the oven door gives baking temperature. Furnished with biscuit cutter, spatula, and Underwriters' labeled cord. Listed by Underwriters' Laboratories, Inc.; a.c. and d.c., 500 watts, 115 volts; price, \$14.95.

Manufacturers' Notes**Pa. Transformer Appoints****New Sales Representatives**

Pennsylvania Transformer Company, Pittsburgh, Pa., announces the appointment of the following sales representatives: for Alabama—Associated Engineers, Birmingham, Ala.; for Oklahoma and Texas—R. D. Cope and Co., Dallas, Texas; for Ohio—W. Porter Jones, Cleveland, O.; for Kansas—J. E. Murray and Co., Kansas City, Mo., and Wichita, Kan.; for Arkansas, Louisiana and Mississippi—Williamson Sales Co., Shreveport, La.

Recent G-E Appointments

T. F. Barton of New York and W. B. Clayton of Dallas, Texas, have been elected commercial vice presidents of the General Electric Company, it was announced recently by President Charles E. Wilson. Both have been district managers in their respective territories and will continue as such.

K. O. Schulte, assistant to Schenectady works manager J. M. Howell of the General Electric Company, has been appointed assistant to the vice president in charge of apparatus manufacturing.

Appointments of Harold M. Towne as manager of sales for lightning arresters and fuse cutouts, and Max I. Alimansky as manager of sales for capacitors, are announced by L. R. Brown, manager of the transportation division of the central station department.

Elliott Personnel Changes

Elliott Company, Jeannette, Pa., announces recent appointments and changes in personnel which include the following:

J. E. Niederhauser has been appointed personnel director of the company and will function in the employment and training of new men, and in safety and first-aid work.

J. F. Brisse, formerly with the Hudson Motor Car Company for 23 years in production and planning work, is now production manager, reporting to the vice-president in charge of operations.

H. L. Dinsmore has been appointed chief

Mention the FORTNIGHTLY—It identifies your inquiry

JONES' JOB



When Jones goes aloft to put in time on a repair job a volume of office work is set in motion . . . First, Jones must be paid. This involves application and extension of Jones' hourly rate, calculation of deductions and net pay, preparation of pay check, wage statement, pay register, Federal and State reports. But, wait! Jones' job must be charged against expense, applied against the budget, reflected in internal financial and operating reports and in external reports to regulatory commissions . . . This sounds more forbidding than the rigors of Jones' job. But it's all simple, direct and speedy in Electric Accounting, for with this method ONE CARD punched with the UN-ALTERABLE record of Jones' job is carried by mechanized means through the entire payroll and corporate accounting.

INTERNATIONAL BUSINESS MACHINES CORPORATION

— Offices in  Principal Cities —

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Equipment Notes (Cont'd)

industrial engineer, reporting to the vice-president in charge of operations. Mr. Dinsmore comes from the firm of consulting engineers, Coverdale and Colpitts of New York.

C. C. Hutchins, who has been electrical engineer for 14 years, has been appointed executive engineer of the Ridgeway Works, in charge of all product engineering with the exception of Naval engineering. I. S. Nippes continues as manager of the Naval department.

E. F. Baker, who has been in the Elliott Company accounting department at Jeannette since 1927, has been appointed general accountant of the company.

Edwin H. Brown Elected by Allis-Chalmers

Edwin H. Brown has been elected a vice president of the Allis-Chalmers Manufacturing Co., in charge of engineering and development.

For the past seven years, Mr. Brown has been manager and chief engineer of the engine and condenser department which is now in charge of M. L. Carson, sales engineer.

Goodrich Appoints Cable Specialist

George A. Fowles has been appointed a sales engineer in the synthetic sales division of The B. F. Goodrich Company, specializing in cable and wire insulation problems.

Formerly with Anaconda Wire and Cable Co., Mr. Fowles served as an engineer with Jackson & Moreland in appraisals of various utility systems and was instrumental in developing a new system of depreciation which is widely used. Among the companies with which he was associated in this work were the Philadelphia Electric Company, Pennsylvania Power & Light Company, Florida Power and Light Company, Suburban Gas and Electric Company, and the Kansas Gas and Electric Company.

G-E Appliance Advertising

In line with General Electric's current theme (How to get the most out of the appliances you now own) proofs of three multiple appliance advertisements scheduled to appear in national magazines during April and May, have been released by Glenn Gundell, in charge of advertising for the appliance and merchandise department, Bridgeport, Conn.

Headlines in the advertisements are: "Timely Tips," "Put Your Electric Refrigerator On War Duty Too!," and "How To Squeeze Extra Hours Out of the Day . . . and Extra

Dimes Out of the Budget with the Electric Appliances you Now Have!"

A small panel in each of the ads offers \$5 in defense stamps for each helpful hint accepted and published . . . the tips to be suggestions from housewives on how to save extra pennies and minutes with electric appliances.

Each ad also carries a line offering to housewives at 3 cents per copy the nutrition booklet "How To Get the Most Out of the Foods You Buy." The booklet was prepared by General Electric in the interest of the national nutrition program.

T. T. Arden Appointed to Grayson Heat Control

Appointment of T. T. Arden, as vice president and general manager of Grayson Heat Control, Ltd., Lynwood, Calif., a division of the Robertshaw Thermostat Company, largely engaged in defense activities, is announced by John A. Robertshaw, president of the parent company.

Shortly after the acquisition of the American Thermometer Company by the Robertshaw Thermostat Company, Mr. Arden was made sales manager of both companies, and he also supervised the sales of Grayson Heat Control, Ltd.

A large part of the Grayson plant's facilities have been converted to munitions manufacture, in addition to its production of thermostats, time controls, and safety pilots for civilian and defense needs.

R. F. Hartenstein Joins Hygrade

R. F. Hartenstein, formerly director of lighting of the Ohio Edison Company, Akron, Ohio, has become associated with the Hygrade Sylvania Corporation as a special representative.

Mr. Hartenstein will spend the major part of his time contacting the commercial departments of the various utilities throughout the United States. For the time being Mr. Hartenstein will make his headquarters at the New York Office of the Hygrade Sylvania Corporation, 500 Fifth Avenue.

Standard Gas Equipment at Baltimore

Standard Gas Equipment Corp., New York, announces that its general sales and advertising offices are now located at Bayard and Hamburg Sts., Baltimore, Maryland. New York regional sales offices and display rooms will be continued at the New York address, 18 East 41st St.

No changes in executive personnel are being made.

Copper Shortage?

Thirty-seven pounds of copper in the form of 6,000 pennies were turned in for Defense Bonds by an employee of the Kellogg-Switchboard and Supply Company. The pennies represent an education fund started 18 months ago by John Oscar.

By converting the pennies to bonds at this time, Mr. Oscar receives credit in the Kellogg company's Defense Bond payroll allotment

70 MASTER-LIGHTS

- Electric Portable Hand Lights.
- Repair Car Spot and Searchlights.
- Emergency (Battery) Floodlights.

CARPENTER MFG. CO.179 Sidney St., Cambridge, Mass.
MASTER-LIGHT MAKERS*Mention the FORTNIGHTLY—It identifies your inquiry*

MAR. 26, 1942

Pennsylvania

introduces a new

STRAIGHT-LINE TAP CHANGER

for Power Transformers

with



RETAINING the fundamental and highly desirable principle of straight-line movement, Pennsylvania introduces valuable improvements in its tap changer for Power Transformers. This new tap changer with its silver-to-silver contacts is capable of carrying heavy overloads without overheating, and is able to withstand "dead" short circuits without detrimental effects. Tests have been made to fully prove these characteristics. This development is evidence of Pennsylvania's continuous research to provide the utmost in transformer life and reliability — a research increasingly important to Industry's Victory Program.

How it operates

Insulating shaft (1) carries on its end a steel gear, which is hidden from view. This gear engages a chromium plated steel rack (2). The rack carries two adjusting and self-aligning steel springs (3). One end of each spring is mounted a copper jaw with arclays (4). The pressure of the spring is transmitted to the movable jaws which make contact by bearing against silver rivets (5) imbedded in stationary copper (6). The transformer leads are bolted on to the stationary jaws.

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Manufacturers' Notes (Cont'd)

plan, that is based on a competitive "War Games" program.

As of March first, the employees of the Kellogg Switchboard and Supply Company had subscribed for \$72,000 worth of bonds.

Chicago Office for Copperweld

Copperweld Steel Company, Glassport, Pa., recently opened its own Chicago district office at 122 South Michigan Ave., Chicago. W. W. Ege, who becomes western sales manager, will supervise the Chicago district.

Application of Induction Motors to Power Station Auxiliaries

A new 22-page bulletin issued by the General Electric Company (GES-2536) describes pictorially the application of induction motors to power station auxiliaries. The text, backed up by both application and product photographs, tells which motor to select for such power station applications as induced- and forced-draft fans, boiler-feed pump drives, condensate and hot-well pumps, circulating pumps, service-water, deaerator, and evaporator pumps, coal pulverizers, and other general applications.

The construction features of the various motors are also described and depicted. The bulletin closes with a tabulation covering the motor characteristics of typical applications for power station auxiliaries.

Catalogs and Bulletins**Wheelco Issues Defense Bulletin**

"Priorities and Pyrometers" is the title of Defense Bulletin No. 1 recently issued by Wheelco Instruments Co., Chicago.

This bulletin is intended to explain, to all users of temperature measuring and control instruments, how the National Defense Program affects these instruments, their purchase, use, maintenance, and the replacements necessary.

The information given points out the present scarcity of various materials and lists other materials which can be used as substitutes. The properties of the original materials and the substitute materials are compared.

Recommendations are also given on maintaining present equipment so that it will operate with maximum efficiency and give uninterrupted service.

New Publications Issued by Elliott Co.

The following new publications have been issued by the Elliott Co., Jeannette, Pa.:

Bulletin H-13. Types AY and BY mechanical drive turbines. Four pages. This bulletin brings up to date the detailed descriptive information on the two smallest frame sizes of Elliott mechanical drive turbines.

Bulletin Y-10. Cleaners for small tubes. Four pages. This bulletin describes various tube cleaner equipment for the cleaning of small tubes in condensers, heaters, heat exchangers, heat evaporators, etc., including the direct-drive "condenser cleaner," the two-speed geared air- or steam-driven cleaner, and two sizes of electric motor cleaners. Mention is also made of small tube cleaners which enter the tube and of the Jiffy Gun for shooting rubber plugs through small tubes.

Bulletin A-7. Twin strainers. Twenty-four pages. This bulletin brings up to date the descriptive information on the various types of twin strainers which have been on the market for many years. The bulletin is fully descriptive with photographs, line cuts, tables of dimensions, etc. Single strainers are also covered.

1942 American Standards List Available

The American Standards Association has announced the publication of its new list of American Standards for 1942.

Nearly 500 American Standards are listed in a wide variety of industrial fields and in the fields of industrial and public safety. There is a separate heading for American Defense Emergency Standards—standards developed specifically for defense purposes, and for the first time all American Safety Standards are listed together in a separate section.

These standards include definitions of technical terms, specifications for metals and other materials, methods of test for the finished product, dimensions, safety provisions for the use of machinery, and methods of work.

In each case these standards represent general agreement on the part of maker, seller, and user groups as to the best current industrial practice. More than 600 organizations are taking part in this work. The standards are frequently reviewed and revised and in order to keep them in line with changing industrial needs. New standards, and those brought up to date within the year are especially marked in the list.

This list of American Standards for 1942 may be obtained without charge from the American Standards Association, 29 West 39th Street, New York, N. Y.

"Electric Gaging"

"Electric Gaging—a new approach to industrial problems," (GES-2543) recently issued by the General Electric Company, tells in interesting, concise fashion of eleven outstanding instances where savings in both time and money, and at the same time improved quality, have resulted from the application of extremely sensitive yet sturdy electric gaging equipment.

The booklet illustrates such electric gages as the strain gage, pressure gage, film-thickness gage, eccentricity gage, profile gage, electrode gages, and the tensiometer. Applications for each are also suggested.

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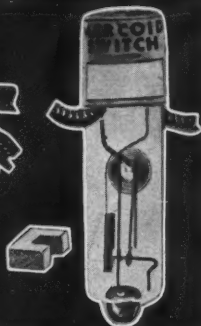
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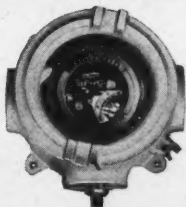
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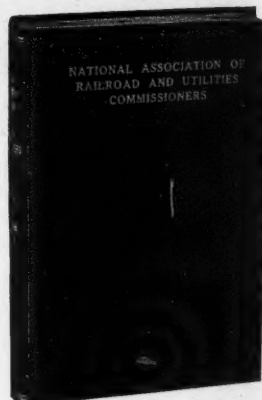
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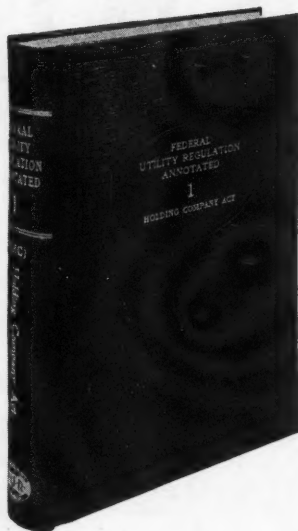
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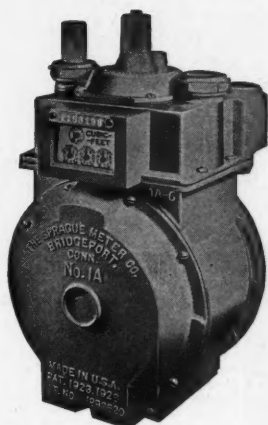
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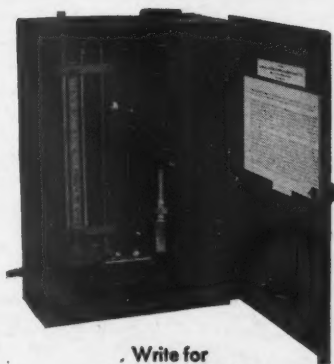
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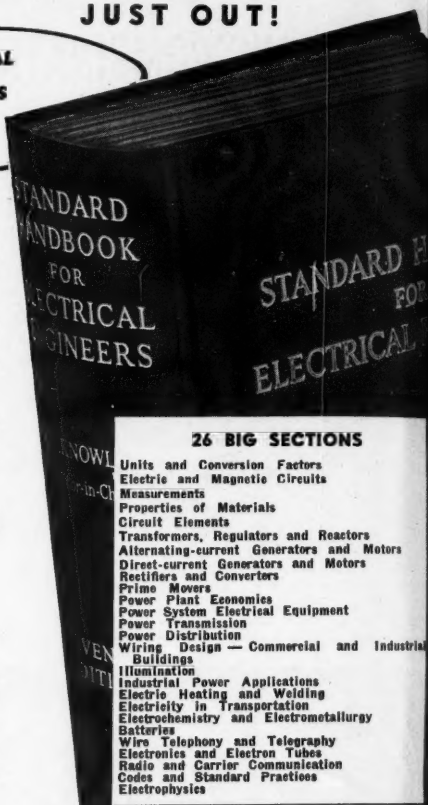
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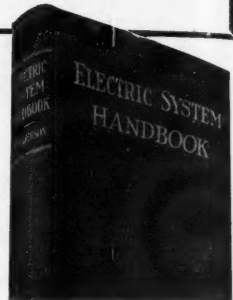
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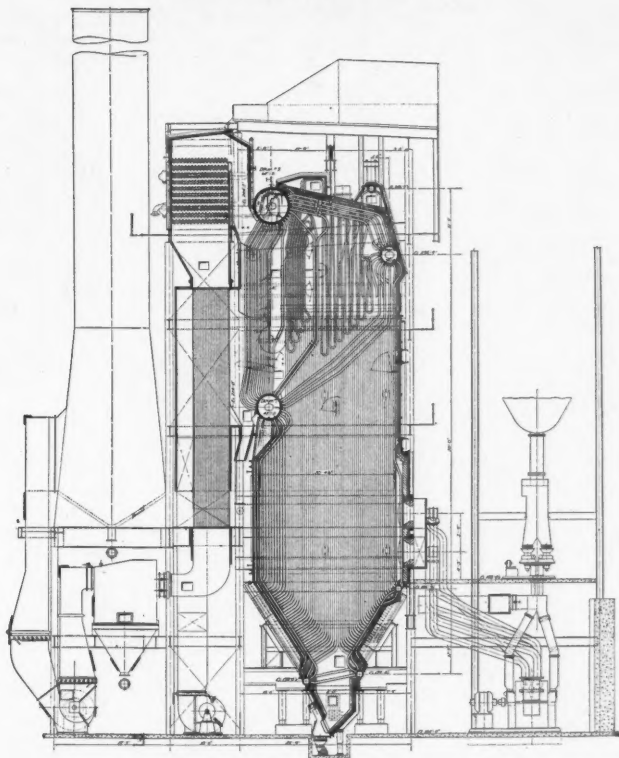
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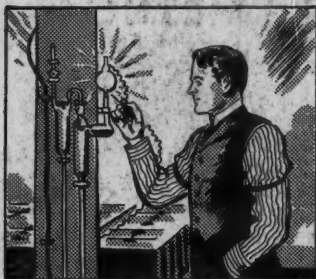
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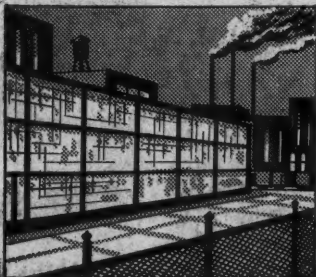
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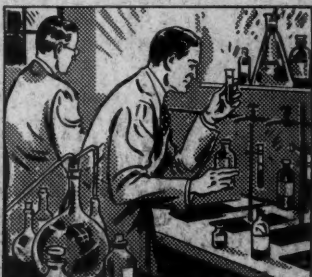
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